

**County Council**

**21 May 2014**



## **Annual Review of the Constitution**

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### **Report of Corporate Management Team**

**Colette Longbottom, Head of Legal and Democratic Services**

**Councillor Simon Henig, Leader of the Council**

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#### **Purpose of the Report**

1. To present proposals for the revision of the Council's Constitution.

#### **Background**

2. In accordance with the Local Government Act 2000, the County Council adopted the new Constitution for the Unitary Authority from 1 April 2009. Although legislation has been amended by the Localism Act 2011, a constitution is still required. An annual review of the Constitution is carried out each year by the Monitoring Officer.
3. Amendments to the Constitution which have been approved by full Council since last year's annual review have been incorporated into the Constitution which is kept updated and maintained on the Council's website and the intranet. Amendments made since the last annual review are shown below:-
  - i. The terms of reference of the Standards Committee, and Corporate Issues Overview and Scrutiny Committee have been amended to reflect the transfer from the Standards Committee of the overview of customer complaints, compliments, and suggestions (Part 2, Articles 6 and 9).
  - ii. Amendment to the terms of reference of the General Licensing and Registration Committee have been made to reflect the new responsibility to determine contested scrap metal dealers' licence applications. The list of legislation in the Officer Scheme of Delegations was updated accordingly (Parts 3A, and 3C).
  - iii. The Terms of Reference of the Highways Committee, and the Delegations to the Corporate Director, Regeneration and Economic Development have been amended in relation to open spaces, public walks and pleasure grounds (Parts 3A, and 3C).
  - iv. Amendments have been made to the Delegations of the Corporate Director, Children and Adult Services to reflect changes in legislation, and working practices; and to extend the Delegations of the Corporate Director, Resources to include the appointment of Assistant Coroners (Part 3C).

- v. To reflect changes in legislation, namely the repeal of the Theft Act 1968 by the Fraud Act 2006 (Part 3C).
  - vi. To reflect a change of membership size to the Appeals and Complaints Committee which increased from 21 to 30 (Part 3A).
  - vii. A revised Local Code of Corporate Governance (Part 5).
  - viii. A revised Petitions Scheme, together with amendments to the Council Procedure Rules, and Overview and Scrutiny Procedure Rules to reflect the new working practices in dealing with petitions (Parts 4 and 5).
  - ix. Amendments to the Standing Orders to provide for a recorded vote on the Budget and Council Tax (Part 4).
4. The Monitoring Officer has now carried out her annual review of the Constitution which includes the review of the Delegations to the Chief Officers who have been consulted and asked to submit any amendments. The proposed revisions are attached as Appendices.

### **Proposed Revisions**

- 5. To amend the Council Procedure Rules where they relate to public questions, by reflecting current practices of the questions being made available to members of the Authority and members of the public at the Council meeting; and that the questions and responses be posted on the website for a period of 2 years after the relevant Council meeting. The amendments are highlighted in Appendix 2 (Part 4).
- 6. To amend the Terms of Reference of the Overview and Scrutiny Management Board and its committees arising from the refresh of the Sustainable Community Strategy (SCS), and the Council Plan, and a review of the co-optee arrangements for those committees. The amended Terms of Reference including changes to the co-optee arrangements, and to the Overview and Scrutiny Procedure Rules are attached at Appendix 3 (Part 2- Article 6, and Part 4).
- 7. To incorporate a revised Highways Committee Representation Procedure in the Constitution following observations from the Local Government Ombudsman as part of an investigation into a complaint about the representation procedure at Highways Committee (Part 5). A revised procedure is attached at Appendix 4.
- 8. To amend the Code of Practice for Members and Officers dealing with Planning Matters to reflect the Local Government Association's new Guidance entitled Probity in Planning for Councillors and Officers published in April 2013 and current working practices (Part 5). An amended Code of Practice is attached at Appendix 5.
- 9. To amend Article 4 because there is no longer a statutory requirement for the Council to produce a Children and Young People's Plan (Part 2). The amendment is highlighted in Appendix 6.

10. To amend Article 16, because the formal role in authorising and establishing clinical commissioning groups has now been completed (Part 2). The amendment is highlighted in Appendix 7.
11. To amend the functions of the Highways Committee to clarify that the functions of the Highways Committee are where they are not delegated to an officer (Part 3, A). The amendment is highlighted in Appendix 8.
12. To amend the Financial Procedure Rules by reviewing the rules relating to budget transfers; updating in-line with current working practices on the use of cash limits within service groupings; significant changes have been made to the sections on Internal Control, Audit Requirements, and Preventing Fraud and Corruption; and the addition of the Chief Finance Officer's responsibilities for establishing and maintaining a separate collection fund in respect of business rates (Part 4). The revised financial procedure rules are set out in Appendix 9.
13. To amend Officer Delegations for the reasons set out below (Part 3, C). The proposed amendments are set out in Appendix 10, Schedules 1-5.
  - i. Changes to the Delegations of the Corporate Director, Children and Adult Services to reflect the transfer of service areas to another Directorate and to improve the wording of the Delegations (Part 3C, Table 3).
  - ii. Changes to the Delegations of the Corporate Director, Regeneration and Economic Development to reflect the transfer of service areas from another Directorate, to reflect current working practices, to reflect a change in job title and to reflect changes in legislation. The table of functions have also been amended to include transport functions delegated to the Council by the Combined Authority formed by the Durham, Gateshead, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (the Combined Authority) (Part 3C, Table 4, and Part 2, Article 11).
  - iii. Changes to the Delegations of the Corporate Director, Neighbourhood Services to reflect the transfer of service areas from another Directorate, to reflect current working practices and to reflect changes in legislation (Part 3C, Table 5).
  - iv. Changes to the Delegations of the Corporate Director, Resources to reflect changes in the Council's terminology, the transfer of service areas from another Directorate and to reflect current working practices (Part 3C, Table 6).
  - v. Changes to the delegations for Major Programmes to remove references to specific programmes (Part 3C, Table 7).
14. The revisions excluding those relating to transport functions delegated by the North East Combined Authority ( Combined Authority) were approved by the Constitution Working Group on 13 March 2014, Cabinet approved all the

revisions (including those relating to combined authority transport functions that were delegated to Cabinet shortly before it met) on the 16<sup>th</sup> April 2014.

## **Recommendations and Reasons**

15. The Council is asked to:

- (i) Approve the scheme of delegations as set out in Part 3 of the Constitution.
- (ii) Agree the proposed revisions to the Constitution, including the delegations to Chief Officers contained, as set out above.
- (iii) Authorise the Head of Legal and Democratic Services, following consultation with the Constitution Working Group, to make future changes to the Constitution to reflect decisions of the Council or a Council body or to comply with legal requirements.

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## **Appendix 1: Implications**

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**Finance:** None specific within this report.

**Staffing:** None specific within this report.

**Risk:** None specific within this report.

**Equality and Diversity/Public Sector Equality Duty:** Provision will be made for the Constitution to be made available on a variety of formats and languages.

**Accommodation:** None specific within this report.

**Crime and Disorder:** None specific within this report.

**Human Rights:** None specific within this report.

**Consultation:** Consultation with Chief Officers has taken place in relation to the proposed provisions.

**Procurement:** The updates ensure that the Financial Procedure Rules remain relevant and up to date.

**Disability Issues:** None specific within this report.

**Legal Implications:** To comply with recent changes in legislation.

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## **Appendix 2: Amendments to the Council Procedure Rules**

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Amendments to paragraph 8 of the Council Procedure Rules

### **8. QUESTIONS BY THE PUBLIC**

#### **8.1 General**

Members of the public may ask questions of Members of the Executive at ordinary meetings of the Council.

#### **8.2 Order of questions**

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

#### **8.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

#### **8.4 Number of questions**

At any one meeting no person may submit more than 3 questions and no more than 3 such questions may be asked on behalf of one organisation.

#### **8.5 Scope of questions**

The Head of Legal and Democratic Services may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the County;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.

#### **8.6 Record of questions**

The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be available to all Members and the public attending the meeting. Copies of the questions asked at the meeting and the responses will be available to be viewed on the website for a two year period.

#### **8.7 Asking the question at the meeting**

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **8.8 Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Copies of the questions and the responses will be available to be viewed on the website for a two year period.

#### **8.9 Reference of question to the Executive or a committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

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**Appendix 3: Amendments to the Terms of Reference of Overview and Scrutiny Arrangements**

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**1. Amended Terms of Reference for Article 6 – Overview and Scrutiny Arrangements**

These are to replace the tables currently under section 6.01

<b>Committee</b>	<b>Scope</b>
<p><b>Overview and Scrutiny Management</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 26 Members of the Council including the Chairs and Vice Chairs of the 5 Scrutiny Committees;</li> <li>• 5 voting Church and Parent Governor representatives;</li> </ul>	<ol style="list-style-type: none"> <li>1 To oversee and co-ordinate the work of Overview and Scrutiny and its committees</li> <li>2 To ensure effective liaison across the work of the committees re: cross cutting issues</li> <li>3 To be strategic driver of the Overview and Scrutiny function</li> <li>4 To consider as appropriate scrutiny member involvement in regional scrutiny arrangements within the context of any regional strategies.</li> <li>5 The establishment of appropriate liaison with the Executive in the interests of achieving common aims and continuous improvement for the Council</li> <li>6 To encourage appropriate community involvement in the Overview and Scrutiny role</li> <li>7 To consider the Council Plan and Notice of Key Decisions and to monitor performance against these plans</li> <li>8 To deal with petitions in accordance with the Council's Protocol as set out in Part 5 of this Constitution</li> </ol>



<p><b>Children and Young People’s Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board ex officio;</li> <li>• 5 voting church and parent governor representatives</li> <li>• Up to <b>2</b> non-voting co-optees to include young people</li> </ul>	<p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Children and Young People realise and maximise their potential</li> <li>• Children and Young People make healthy choices and have the best start in life</li> <li>• A Think Family approach is embedded in our support for families</li> </ul>
<p><b>Safer and Stronger Communities Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board ex officio;</li> <li>• Up to <b>2</b> non-voting co-optees;</li> <li>• Co-opted employees or officers of a responsible authority or of a co-operating person or body, in accordance with Crime and Disorder (Overview and Scrutiny) Regulations 2009.</li> </ul>	<p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Reduce Anti-Social Behaviour</li> <li>• Protect vulnerable people from harm</li> <li>• Reduce re-offending</li> <li>• Alcohol and substance misuse harm reduction</li> <li>• Counter terrorism and prevention of violent extremism</li> <li>• Casualty reduction</li> <li>• Embed the Think Family approach</li> </ul>

**N.B.** This Committee shall be the Crime and Disorder Committee for the purposes of Part 3 of the Police and Justice Act 2006.

<p><b>Environment and Sustainable Communities Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board ex officio;</li> <li>• Up to <b>2</b> non-voting co-optees.</li> </ul>	<p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Deliver a cleaner, more attractive and sustainable environment</li> <li>• Maximise the value and benefits of Durham’s natural environment</li> <li>• Reduce carbon emissions and adapt to the impact of climate change (including Flood or coastal erosion risk management functions)</li> <li>• Promote sustainable design and protect Durham’s heritage</li> </ul>
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**NB:** The Environment and Sustainable Communities Overview and Scrutiny Committee shall be the Flood Risk Management Overview and Scrutiny Committee for the purposes of the Local Government Act 2000 as amended by the Flood and Water Management Act 2010.

<p><b>Economy and Enterprise Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board ex officio;</li> <li>• Up to 2 non-voting co-optees.</li> </ul>	<p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Thriving Durham City</li> <li>• Vibrant and Successful Towns</li> <li>• Sustainable neighbourhoods and rural communities</li> <li>• Competitive and successful people</li> <li>• A top location for business</li> </ul>
<p><b>Adults Well Being and Health Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board ex officio;</li> <li>• Up to 2 non-voting co-optees</li> </ul>	<ul style="list-style-type: none"> <li>• To lead on the review and scrutiny of NHS Services, Adults social care, Health inequalities and improvement and Public Health Services.</li> <li>• To consider the Sustainable Community Strategy priorities, Joint Health and Wellbeing Strategy, Clinical Commissioning Groups' "Clear and Credible" plans and the Council Plan actions that relate to this agenda.</li> </ul> <p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Reduce health inequalities and early deaths</li> <li>• Improve the quality of life, independence and care and support for people with long term conditions</li> <li>• Improve the mental and physical wellbeing of the population</li> <li>• Support people to die in the place of their choice with the care and support they need</li> </ul>
<p><b>Corporate Issues Overview and Scrutiny Committee</b></p> <p><i>Membership</i></p> <ul style="list-style-type: none"> <li>• 21 Members of the Council;</li> <li>• Chair and Vice Chair of Overview and Scrutiny Management Board</li> </ul>	<ul style="list-style-type: none"> <li>• To consider the Council's annual budget;</li> <li>• To assist the Executive in the development of the Council's annual budget and to review and scrutinise budgetary management;</li> <li>• To assist the Executive in</li> </ul>

<p>ex officio.</p>	<p>ensuring the provision of efficient and effective corporate management and support arrangements</p> <ul style="list-style-type: none"> <li>• To assist the Executive in the development of asset management</li> <li>• Oversight role of RIPA (regulation of Investigatory Powers Act 2000).</li> <li>• Oversight role of customer complaints, compliments and suggestions.</li> </ul> <p>Relevant SCS and Council Plan themes:</p> <ul style="list-style-type: none"> <li>• Putting the Customer First</li> <li>• Working with our Communities</li> <li>• Effective use of Resources</li> <li>• Support our People through Change</li> </ul>
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## 2. To Amend the Overview and Scrutiny Procedure Rules

Amend paragraph 3 relating to Co-optees to read:

Each thematic Scrutiny Committee shall be entitled to appoint a maximum of **two** people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members shall be in accordance with the Protocol agreed by the Overview and Scrutiny Management Board.

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## **Appendix 4: Revised Highways Committee Representation Procedure**

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### **Highways Committee**

#### **Representation Procedure**

1. Wherever possible, objections or representations on Orders or Applications should be made in writing. Representations or objections received will be summarised and reported to the Highways Committee. Members of the Committee will be given the opportunity to inspect all letters received before the decision on the Application or Order is made.
2. There will be occasions when applicants, supporters, objectors, Ward Members and Parish/Town Council representatives, or some of these, may wish to make representations in person to the Highways Committee. In such circumstances the following procedure will normally apply:
  - (i) The applicant and any supporters will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The applicant/supporters, objectors, Ward Members and Parish/Town Council representative will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do so and if so will be invited to the meeting at which the decision is to be made. However, except for Ward Members, any person wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon on the last working day before the Committee Meeting in the absence of which they will only be permitted to speak at the discretion of the Chairman.
  - (ii) Ward Members and the Parish/Town Council representative will be afforded an appropriate amount of time (at the discretion of the Chairman) within which to address the Committee.
  - (iii) Each other group of speakers (objectors and Applicants/supporters) will be allowed a maximum of five minutes (except at the discretion of the Chairman) to address the Committee. In the event that more than one person wishes to speak for or against the Order or Application, the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
  - (iv) At the meeting the Officer will present his / her report first.
  - (v) The Parish/Town Council representative will then address the Committee.
  - (vi) The Ward Member will then address the Committee.
  - (vii) The objectors will then make their representations and may be asked questions by the Committee but will not be permitted to make representations more than once.

(viii) The applicant/supporter will then make his or her representations and may be asked questions by the Committee but will not be permitted to make representations more than once.

(ix) Officers may comment on the representations and the merits of the application/order.

(x) The Committee will proceed to debate the application/order and make a decision. The minute will include the reasons for that decision.

(xi) New documents should not be circulated to the Committee; Members may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

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## **Appendix 5: Amended Code of Practice for Members and Officers Dealing with Planning Matters**

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### **Code of Practice for Members and Officers Dealing with Planning Matters**

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

#### **1. INTRODUCTION**

1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.

1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between members and officers and between the public and the council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.

1.3 The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:

- Members should serve only the public interest and should never
- improperly confer an advantage or disadvantage on any person.
- Members should not place themselves in situations where their honesty or integrity may be questioned.
- Members should make decisions on merit.
- Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- Members should respect the impartiality and integrity of officers.

1.4 The Council is committed to open, fair and transparent decision-making.

Planning decisions should be made impartially, with sound judgment and for justifiable reasons.

1.5 This Code of Practice sets out practices and procedures that members and officers of the County Council shall follow when involved in planning matters.

Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

- 1.6 This code is largely based upon the Local Government Association's Guidance entitled Probitiy in Planning for councillors and officers published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and the National Planning Forum. It implements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been taken of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.
- 1.7 Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

## **2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 2.2 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.3 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgment and make a decision in the interests of the County as a whole.
- 2.4 Whilst members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.5 Members should treat with extreme caution any offer of a gift or hospitality which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning

proposal. If receipt of hospitality is unavoidable, officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its members or other officers, have prevailed upon the officer to put forward his or her professional view as something other than it really is.
- 2.8 The County Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 The County Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. A superior officer shall not have the power to overrule the professional advice of the head of the planning service.
- 2.10 Officers shall follow the guidance on their standards of conduct as set out in the County Council's Staff Guidance, the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000 (as amended).

### **3. DECLARATION OF NON REGISTERABLE PERSONAL INTERESTS**

- 3.1 The Council's Code of Conduct advises members on the disclosure of a non-registerable personal interest and whether it is a prejudicial interest which would lead to non-participation in Council business. Personal interests include those of members of your family or any persons with whom you have a close association or their employer, any firm in which they are a partner or company of which they are a director or shareholder. Members of your family are defined in the Code. You have a close association with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour that person when deciding on a matter which affects them. Friends are not defined, but it is suggested that it is someone well known to the member and regarded with liking, affection and loyalty, that is a closer relationship than a mere acquaintance. If in doubt the Monitoring Officer's advice should be sought.
- 3.2 If the non-registerable interest is personal and prejudicial (in this context meaning that it would prohibit participation in council business under the Code of conduct for Members) the member shall declare it at the earliest opportunity, must not participate in any discussion or vote taken on the matter at the meeting, must leave the room where the matter is being



considered and must not try to influence those making the decision or take any part in the consideration or determination of the matter.

- 3.3 Where a member has a non-registerable personal interest that is not prejudicial under the Council's Code of Conduct, the member, when attending a meeting of the Council at which the matter is considered, shall declare it at the commencement of the meeting and may participate in the discussion and vote on the matter.
- 3.4 New rules in relation to bias and predetermination have been introduced by section 25 of the Localism Act 2011. The new rule applies if there is an issue about the validity of a decision and it is relevant to that issue whether a member had or appeared to have a closed mind when making the decision. Under the new rules a member is not to be taken to have had, or appeared to have had a closed mind when making the decision just because she or he had previously done anything that directly or indirectly indicated the view the member took, or would or might take, in relation to a matter relevant to the decision.
- 3.5 The principle that members must not participate in decisions where they are perceived to be biased remains. An example would be a member who was a governor of a school which was putting forward a planning application.
- 3.6 Serving members should not act as agents for persons pursuing planning matters within their authority. If they submit their own proposal to the authority on which they serve, they should play no part in its consideration. When submitting proposals on behalf of themselves, the member shall inform the Monitoring Officer of the submission.
- 3.7 Officers must always act impartially. An officer, who believes he or she may be seen to have a personal and prejudicial interest in a planning matter, shall declare it at the earliest opportunity, so advising the Head of Planning and the Monitoring Officer and have no further involvement in the processing or consideration of that matter.
- 3.8 Planning officers shall never act as agents for persons pursuing a planning matter within the county or one outside significantly affecting the county.

#### **4. 'DUAL-HATTED MEMBERS'**

- 4.1 The Council's Code of Conduct does not automatically prevent members from considering the same issue at more than one tier of local government, including speaking and voting at both tiers.
- 4.2 For example, if a member is also a member of a parish council, and the parish council is consulted on a planning application to be determined by the Planning Committee, the member may participate in the discussion and vote at the parish council meeting; but it would be prudent to inform the parish council that the member will reconsider the matter taking into account all the information that is put before the Planning Committee. At the subsequent meeting of the Planning Committee the member should declare a personal (but not prejudicial) interest as a member of the parish council which has already expressed a view on the matter, but make it clear that this view does

not bind the member who will consider the matter afresh. The member will be free to participate in the debate and vote on the matter.

- 4.3 However, if the Planning Committee considers a planning application by an authority or body on which a member serves, then the member should declare a non-registerable personal and prejudicial interest and withdraw from the meeting.

## **5. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

- 5.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 5.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 5.3 Members of the planning committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a non-registerable personal and prejudicial interest and take no part in the discussion and determination of that proposal.
- 5.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## **6. LOBBYING OF AND BY MEMBERS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees and neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting.

To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members should make clear that they reserve their final decision on a proposal until the committee meeting.

- 6.5 Members of the planning committee shall not, in general, organise support or opposition for a proposal, or lobby other members (other than when addressing the planning committee). Members of the Council shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting but not vote. The member of an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the planning committee, be allowed to attend and speak but not vote. A local member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with a group or individual campaigning for or against an application, he or she shall declare a non-registerable personal and prejudicial interest and not vote or decide on the matter. However, that member shall be given the opportunity to address the Committee.
- 6.8 Members of a planning committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the committee meeting shall not be used to decide how members should vote at the planning committee.

## **7. PRE-AND POST-APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is actively encouraged in accordance with the Council's protocol on pre-application advice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.

- 7.5 Members need to preserve their role as impartial decision makers and should not ordinarily take part in pre-or post-submission discussions and negotiations with applicants regarding development proposals. The exception to this is for those major schemes which are considered to be of importance to the County or schemes that are likely to be highly contentious and are therefore subject to the Council's Pre-Application Member Engagement protocol which provides for structured arrangements with officers and a prospective developer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by members should be provided to the officers dealing with the application.

## **8. OFFICER REPORTS TO COMMITTEE**

- 8.1 The Head of Planning will submit written reports to the Planning Committee on planning applications to be determined by the County Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application including those made by the applicant. The Head of Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Head of Planning will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## **9. THE DECISION MAKING PROCESS**

- 9.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 9.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 9.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

- 9.4 Where the Planning Committee decide to adopt the recommendation of the Head of Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 9.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning, agreement shall be reached at the meeting on the reasons for that decision. They shall be fully minuted by the Head of Legal and Democratic Services.

## **10. SITE VISITS BY THE COMMITTEE**

- 10.1 A site visit is only likely to be necessary if:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;
  - the comments of the applicant and objectors cannot be expressed adequately in writing; or
  - the proposal is particularly contentious.
- 10.2 Site visits will be organised in accordance with the following procedures:
- (i) The Head of Legal and Democratic Services will invite the local County Councillor to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chairman of the Planning Committee, the local County Councillor for the adjacent division will also be invited.
  - (ii) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
  - (iii) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
  - (iv) On assembling at the site, at the time specified, the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning, or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning, the Chairman will bring the site visit to a close.
  - (v) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application.

## **11. REPRESENTATIONS ON PLANNING APPLICATIONS**

- 11.1 Wherever possible, objections or representations to planning applications

should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members of the Committee will be given the opportunity to inspect all letters received before the decision on the application is made.

- 11.2 There will be occasions when applicants, supporters, objectors, Ward Members and Parish/Town Council representatives or some of these, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will normally apply:
- (i) The applicant and any supporters will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The applicant/supporters, objectors, Ward Members and Parish/Town Council Representative will also be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do so and, if so, will be invited to the meeting at which the decision is to be made. However, except for Ward Members, any person wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon on the last working day before the Committee Meeting in the absence of which they will only be permitted to speak at the discretion of the Chairman.
  - (ii) Ward Members and the Parish/Town Council representative will be afforded an appropriate amount of time (at the discretion of the Chairman) within which to address the Committee.
  - (iii) Each other group of speakers (objectors and applicants/supporters) will be allowed a maximum of five minutes (except at the discretion of the Chairman) to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.
  - (iv) At the meeting the Officer will present his / her report first.
  - (v) The Parish/Town Council representative will then address the Committee.
  - (vi) The Ward Member will then address the Committee.
  - (vii) The objectors will then make their representations, and may be asked questions by the Committee but will not be permitted to make representations more than once
  - (viii) The applicant/supporter will then make his or her representations and may be asked questions by the Committee but will not be permitted to make representations more than once.
  - (ix) Officers may comment on the representations and the merits of the application.

- (x) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.
- (xi) New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

## **12. REVIEW OF DECISIONS**

- 12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 12.2 Visits to application sites previously considered by the County Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 12.3 Attendance at the review site visits shall be restricted to members of the committee and the local County Council members.

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**Appendix 6: Table 4**

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**Article 4 – The Full Council****4.01 Meanings**

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Council Plan
- Sustainable Community Strategy
- County Durham Local Development Framework (Plans and alterations that together form the Development Plan)
- ~~Children and Young People’s Plan~~
- Youth Justice Plan
- Local Transport Plan
- Crime and Disorder Reduction Strategy (known as Safe Durham Partnership Plan)
- Economic Development Strategy
- Housing Strategy
- Licensing Authority Policy Statement
- Statement on Gambling Policy
- Any other plan or strategy which the Council determines should be adopted or approved by them.



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## Appendix 7: Table 16

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### Article 16 – The Health and Wellbeing Board

#### 16.01 Health and Wellbeing Board

The Council establish a Health and Wellbeing Board.

#### 16.02 Composition

The composition of the Health and Wellbeing Board is as follows:-

- Representatives nominated by the Leader (being currently:
- Portfolio Holder for Adult Services;
- Portfolio Holder for Safer and Healthier Communities;
- Portfolio Holder for Children and Young People's Services);
- Representation from each Clinical Commissioning Group;
- A representative from Local Healthwatch;
- Corporate Director Children and Adults Services;
- Director of Public Health and nominated representation from each of the following:-
- Chief Executive of Tees Esk and Wear Valley NHS Foundation Trust;
- Chief Executive of County Durham and Darlington Foundation Trust;
- Chief Executive of City of Sunderland NHS Foundation Trust;
- Chief Executive of North Tees and Hartlepool NHS Foundation Trust;

#### 16.03 Role and Function

The Health and Wellbeing Board will have the following roles and functions:-

- Promote integrated working between commissioners of health services, public health and social care services, for the purposes of advancing the health and wellbeing of the people in its area;
- Encourage those who provide services related to wider determinants of health, such as housing, to work closely with the Health and Wellbeing Board;
- Develop and agree the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy ("JHWS");
- ~~Have a formal role in authorising and establishing clinical commissioning groups ("CCGs");~~
- Be involved throughout the process as CCGs develop their commissioning plans and ensure they take proper account of the JHWS when developing these plans; and
- Provide advice and assistance or other support as it thinks appropriate for the purposes of encouraging the making of arrangements under Section 75 of the National Health Service Act 2006.

## Appendix 8: Highways Committee Functions

Council Body	Membership	Functions
Highways Committee	21 Members of the Council.	<p>Except where the matter is delegated to an officer;</p> <ol style="list-style-type: none"> <li>1. Functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations in cases where objections have been made and not withdrawn.</li> <li>2. Providing guidance to the Corporate Director, Neighbourhood Services and the Corporate Director, Regeneration and Economic Development as appropriate, in relation to the exercise of delegated functions under the Road Traffic Regulation Act 1984, where objections have been made and not withdrawn.</li> <li>3. Providing guidance to the Corporate Director Regeneration and Economic Development as appropriate, in relation to the exercise of delegated functions under sections 4, 5, 6 and 7 of the Local Government (Miscellaneous Provisions) Act 1953 where objections or representations are made and not withdrawn.</li> <li>4. Any other non-executive functions specified in the 2000 Regulations relating to highways or public rights of way which require a statutory notice or consultation and where objections have been made and not withdrawn.</li> <li>5. To discharge the Council's licensing, registration and regulatory functions in relation to common land and town and village greens.</li> <li>6. Providing guidance to the Corporate Director, Regeneration and Economic Development as appropriate, in relation to the exercise of delegated functions to determine proposals to appropriate or dispose of open space or public walks and pleasure grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875, if there are any unresolved objections to the proposals.</li> </ol>

## Financial Procedure Rules

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## **1. INTRODUCTION**

### **1.1 What are Financial Procedure Rules?**

1.1.1 Financial Procedures provide the framework for managing the Council's financial affairs. The Financial Procedures are supported by more detailed Financial Management Standards which set out how the Procedures will be implemented. These are listed in Appendix A.

1.1.2 The Procedures identify the financial responsibilities of the full Council, the Cabinet, the Audit Committee and Officers.

1.1.3 To avoid the need for regular amendments due to changes in post titles, generic terms are included for officers as follows:

- The term, "Chief Finance Officer," refers to the Section 151 Officer who is currently the Corporate Director Resources.
- The term, "Chief Officers", refers to the Council's Chief Executive, the Corporate Directors and the Assistant Chief Executive.
- The term, "Monitoring Officer", is currently the Head of Legal and Democratic Services.
- The term, "Chief Internal Auditor", refers to the Chief of Internal Auditor and Corporate Fraud Manager

### **1.2 Why are they important?**

1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These Procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

1.2.2 Good, sound financial management is a key element of the Council's Corporate Governance framework which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

### **1.3 Who do Financial Procedures apply to?**

1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use

of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.

- 1.3.2 Separate financial procedures have been incorporated into the Council's Scheme for Financing of Schools and relate to those matters where decisions have been delegated to school governing bodies.
- 1.3.3. These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 1.3.4 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

#### **1.4 Who is responsible for ensuring that they are applied?**

- 1.4.1 Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- 1.4.2 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.
- 1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the best interests of the Council, he/she shall raise the issue with the Chief Finance Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

## **2. FINANCIAL MANAGEMENT – GENERAL ROLES AND RESPONSIBILITIES**

### **2.1 The Role of the Full Council**

- 2.1.1. The Council has a duty towards its Council Tax payers with regard to financial decisions and their consequences. The full Council is responsible for approving the Budget and Policy Framework within which the Cabinet operates having regard to the Chief Financial Officer's comments in his report under Section 25 of the Local Government Act 2003. The budget setting process includes the approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The role of the Council is set out in this Constitution.

## **2.2 The Role of the Cabinet**

2.2.1 The Cabinet (as the Council's Executive) is responsible for proposing the Budget and Policy Framework to full Council, and for discharging executive functions in accordance with the Budget and Policy Framework. The role of the Cabinet is set out in this Constitution.

## **2.3 The Role of the Audit Committee**

2.3.1 The Audit Committee approves the final accounts and is an advisory committee to the Council and the Executive on audit and governance issues in order to provide independent assurance over the adequacy of the Council's risk management framework and associated control environment.

## **2.4 The Role of the Chief Finance Officer**

2.4.1 The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Act 2003
- The Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 and 2009
- The Accounts and Audit (England) Regulations 2011
- The Code of Practice on Local Authority Accounting 2012/13 (the Code)

2.4.2 The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- The proper administration of the Council's financial affairs.
- Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- Annually reviewing and updating, and monitoring compliance with Financial Management Standards.
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information and advice to the Corporate Management Team, the Cabinet, the Council and the Audit Committee on all aspects of its activity including the presentation of appropriate financial options as necessary.
- Providing training for Members and officers on finance issues.
- Determining accounting policies and ensuring that they are applied consistently.
- Determining accounting procedures and records of the Council.
- Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet.

- Preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan.
- Ensuring the provision of an effective Internal Audit Function.
- Ensuring the provision of an effective Treasury Management Function.
- Advising on risk management.
- Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting 2012/13 (the Code).
- Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- Ensuring that proper professional practices, standards and ethics are adhered to.
- Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

2.4.3. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

- Has made, or is about to make a decision which involves incurring expenditure which is unlawful.
- Has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council.
- Is about to make an unlawful entry in the Council's accounts.

2.4.4 Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

#### 2.4.5 The Chief Finance Officer:

- Is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.
- Shall be given access to any information as is necessary to comply with his/her statutory duties and with the requirements and instructions of the Council.
- Shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish and to the Corporate Management Team.
- Shall be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if he/she so desires.

### 2.5 The Role of Chief Officers

2.5.1 Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

2.5.2 Chief Officers are responsible for:

- Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Financial Officer.
- Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer.
- Consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.

## 3. FINANCIAL PLANNING

### 3.1 Strategic Planning

3.1.1 The full Council is responsible for agreeing the Council's Budget and Policy Framework which will be proposed by Cabinet.

3.1.2 The preparation of the medium term financial plan is part of the strategic policy framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable and sustainable, and reflect Council priorities.



- 3.1.3 The policy framework comprises various plans and strategies, as defined in this Constitution. In terms of financial planning, the key elements are:
- The Council's performance management framework
  - The Council Plan
  - The Medium Term Financial Plan
  - The Corporate Asset Management Plan
  - The Workforce Development Plan
  - The Sustainable Communities Strategy
- 3.1.4 The full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy framework.
- 3.1.5 Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas in accordance with the corporate performance framework determined by the Assistant Chief Executive. Service improvement plans should align with Council values and priorities and be consistent with and based upon the budget allocated by the Council to the service.

## **3.2 Budget Preparation**

- 3.2.1 The Cabinet, in consultation with the Chief Finance Officer is responsible for determining the general budget strategy and issuing annual guidelines to Members and Chief Officers on:
- Preparing a detailed revenue budget for the following year
  - Preparing the Medium Term Financial Plan (4 years)
  - Preparing the capital programme
  - The timetable for preparing and agreeing the Council's revenue and capital budget
- 3.2.2 The guidelines will take account of:
- Council priorities as reflected in the Council plan
  - Spending pressures
  - What future funding is available
  - What level of reserves are available
  - The affordability, sustainability and prudence of capital investment plans
  - Legal requirements
  - Value for money and other relevant government guidelines
  - Other internal policy documents
  - Cross-cutting issues (where relevant)

- 3.2.3 The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the full Council's policy framework.
- 3.2.4 The Chief Finance Officer is responsible for ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a four yearly basis (Medium Term Financial Plan) for consideration by Cabinet before submission to full Council.
- 3.2.5 The Chief Finance Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the full Council.
- 3.2.6 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the full Council on the adequacy of the reserves for the Council.
- 3.2.7 Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

### **3.3 Budget Approval**

- 3.3.1 The full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The policy framework comprises of a number of statutory plans and strategies.
- 3.3.2 The Council's revenue and capital budget will be proposed by the Cabinet, (on the advice of the Chief Finance Officer), and will be approved by the full Council.
- 3.3.3 The full Council may amend the proposed budget or ask the Cabinet to reconsider it before approving it.

### **3.4 Budget Transfers**

- 3.4.1 During the year Cabinet and Chief Officers may need to transfer budgets from one service area to another to reflect changed service needs or priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- 3.4.2 Budget transfers within services should be agreed at Service Management Teams and then reflected in the budgetary control template which feeds into the monthly update reports to CMT and the quarterly update reports to Cabinet. Once approved by CMT/Cabinet the budget can then be revised in Oracle.
- 3.4.3 Budget transfers between service groupings will require the agreement of both services before they can proceed.
- 3.4.4 Transfers to and from Earmarked Reserves need to be agreed by Service Management Teams and reflected in the budgetary control template. Cabinet will ultimately agree these transfers, the reason for which must be clear in the budgetary control report. The budget will be adjusted in Oracle to reflect the transfers, once agreed by Cabinet.

- 3.4.5 After the Quarter 3 Outturn Report to Cabinet no further budget adjustments can be made between services or between subjective headings within the same service for the remainder of the financial year.
- 3.4.6 A capital budget cannot be transferred to a revenue budget head.
- 3.4.7 The transfer of capital budgets will require approval by the Capital Member Officer Working Group (MOWG) and full approval by Cabinet. This will include:
- Reprofile from one financial year to another
  - Significant transfers within capital programme areas
  - Transfers between capital programme areas within a service
  - Transfers between services
- 3.4.8 Any increase in overall capital budget e.g. new grant funding or approval to increase borrowing must be approved by CMT and MOWG before full approval by Cabinet.

### **3.5 Cash Limits**

#### 3.5.1 What is the cash limit?

- All running costs of services which are under the control or influence of the Corporate Director.
- The Cash Limit Reserve is the balance which has been built up from any underspends in the year, or from previous years, that is earmarked for planned use by the service.

#### 3.5.2 What are cash limits for?

- To give services the flexibility to manage their budgets over a period of more than one financial year.
- To avoid inappropriate spending decisions by budget managers, who may rush to spend their budget allocation as they approach year end in the fear that the budget will be reduced if the spend is not incurred.

#### 3.5.3 What is not included in the cash limit?

- Corporate budgets (e.g. LGA and ANEC subscriptions)
- Members allowances and other costs
- Coroner's costs
- Investment income
- Capital charges and capital financing
- Recharges where Corporate Directors cannot influence the impact on their services (e.g. Central Admin, Customer Services, Design Services, Sustainable Transport Team and Corporate & Democratic Core)
- Other items as agreed by Cabinet

3.5.4 What happens if excessive costs impact upon service groupings (e.g. extreme weather events such as flooding or severe winters)?

- Requests for excessive costs to be deemed to be outside the cash limit will require approval by Cabinet.
- If approved they will be reported to Cabinet as part of the Forecast of Outturn Report and a budget transfer will be made to the service from contingencies.

3.5.5 At the end of each year any over or underspends of the cash limited element of the budget will be transferred to the cash limit reserve for each service grouping.

3.5.6 If any service grouping's cash limit reserve is insufficient to fund any overspends then the following year's budget will be reduced accordingly.

### **3.6 Budget Monitoring and the Control of Income and Expenditure**

3.6.1 The Chief Finance Officer is responsible for:

- Developing an effective framework of budgetary management and control.
- Providing appropriate financial information to enable budgets to be monitored effectively.
- Reporting to Cabinet on the overall Council budget monitoring position on a quarterly basis.
- Reporting to all relevant Scrutiny Committees on a quarterly basis.
- All payments to employees, Members and creditors.
- Maintaining the Council's tax records.
- Advising Chief Officers on all taxation issues that affect the Council.
- Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- Agreeing arrangements for the collection of income due to the Council.
- Agreeing banking, borrowing and other credit requirements, e.g. leasing.
- Agreeing the write-off of bad debts in accordance with the Council's Debt Recovery Policy.

3.6.2 The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer is authorised in this respect under the Scheme of Delegations in this Constitution.

3.6.3 Separate financial procedures for schools have been incorporated into the Council's Scheme for Financing Schools and relate to those matters where decisions have been delegated to school governing bodies.

3.6.4 It is the responsibility of Chief Officers to:

- Control income and expenditure within their service area.
- Monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer.
- Report on spending variances within their own areas.
- Take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### **3.7 Reporting Council Spending at Year End**

3.7.1 The Audit Committee is responsible for approving the annual audited Statement of Accounts.

3.7.2 The Chief Finance Officer is responsible for:

- Publishing a timetable for the closure of the accounts annually.
- Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the most up-to-date Code of Practice on Local Authority Accounting produced by CIPFA/LASAAC, the latest Accounts and Audit Regulations (England) and any other relevant guidelines.

3.7.3 It is the responsibility of Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

### **3.8 Use of Council Reserves**

3.8.1 The Chief Finance Officer is responsible for advising Cabinet and/or the full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.

3.8.2 The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by the Cabinet and full Council.

## **4. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **4.1 Risk Management**

4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

4.1.2 The Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.

4.1.3 The Council has nominated the Chief Finance Officer as the lead officer Risk Management Champion and the Deputy Leader as the Member Risk Champion.

4.1.4 The Chief Finance Officer is responsible for preparing the Council's Risk Management Policy Statement, promoting it throughout the Council and for advising the Cabinet on proper insurance cover for material risks where appropriate.

- 4.1.5 The Corporate Risk Management Group supported by the Corporate Risk Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to Cabinet.
- 4.1.6 It is the responsibility of Chief Officers to ensure that there are regular reviews of risk within their areas of responsibility, having regard to advice from the Council's Corporate Risk Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

## **4.2 Internal Control**

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 Internal control systems relate to all aspects of management, not just financial management, but it is particularly important that financial internal control systems are effective to safeguard the use of public funds, ensure that the financial accounts of the council are accurate, all transactions are legal and to prevent and detect fraud, misuse or irregularity.
- 4.2.3 The Chief Internal Auditor is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that risk management is embedded across the Council as internal controls are established to manage identified risks.
- 4.2.4 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to effectively manage risks which may prevent them from achieving corporate and service objectives, continuous improvement, value for money, and effective use of resources.
- 4.2.5 The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.
- 4.2.6 It is the responsibility of the Chief Financial Officer and the Resources Service Grouping Management Team to prepare the Annual Governance Statement.
- 4.2.7 It is the responsibility of the Audit Committee to approve the Annual Governance Statement and to seek the necessary assurance that the Council's corporate governance arrangements including risk management and internal control are effective.

## **4.3 Insurance**

- 4.3.1 Insurance provision is a way of managing risk.
- 4.3.2 The Chief Finance Officer is responsible for:
- Effecting insurances falling with the framework approved by Cabinet and dealing with all claims in consultation with other Chief Officers where necessary.

- Operating an adequately funded self-funding arrangement which protects the Council against undue loss and provides value for money. Services are recharged the costs incurred by the Council for self-funded claims and insurance related expenditure.
- Reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.

4.3.3 It is the responsibility of Chief Officers to:

- Advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required, and of any changes affecting existing risks or insurance cover required.
- Notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and provide such information and explanations required by the Chief Finance Officer or the Council's insurers
- Consult with the Head of Legal Services on the terms of any indemnity which they are requested to give on behalf of the Council.
- Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

#### **4.4 Audit Requirements**

4.4.1 Internal Audit is primarily an independent assurance function and is a statutory service in the context of the Accounts and Audit Regulations (England) 2011, which state that:

“A relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices.”

4.4.2 The Public Sector Internal Audit Standards (PSIAS) and CIPFA's Local Government Application Note, which came into effect April 2013, constitute proper practices to satisfy the requirements for larger relevant local government bodies as set out in the Accounts and Audit Regulations 2011.

4.4.3 The Chief Finance Officer is responsible for:

- Ensuring an effective internal audit function is resourced and maintained.
- Ensuring that the authority has put in place effective arrangements for the internal audit of the entire control environment.
- Supporting internal audit arrangements.
- Ensuring the Audit Committee receives the necessary advice and information so that both functions can operate effectively.

4.4.4 The strategy and terms of reference for Internal Audit are detailed in the Council's Internal Audit Charter which is approved and reviewed by the Audit Committee.

- 4.4.5 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. They are also required to follow the current Audit Code of Practice. The duties include reviewing the work of the internal auditors. The Chief Finance Officer is responsible for implementing agreed actions in response to external audit findings and recommendations.
- 4.4.6 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, Ofsted, Care Quality Commission who have statutory rights of access. These bodies together with internal and external audit provide valuable assurance to the Audit Committee on the effectiveness of the Council's corporate governance arrangements because of their independence and objectivity.
- 4.4.7 Chief Officers are responsible for taking relevant action in response to findings and recommendations arising from the work of all assurance providers, internal or external, or accepting the residual risk if no action is taken.
- 4.4.8 The Chief Internal Auditor is responsible for providing an annual audit opinion on the adequacy and effectiveness of the Council's entire internal control environment. This opinion will be reported in an annual audit report which is considered by both the Corporate Management Team and the Audit Committee. Any significant issues arising from this report will be reflected in the Annual Governance Statement.

## **4.5 Preventing Fraud and Corruption**

- 4.5.1 The Council recognises its responsibility to protect the public purse and acknowledges that the public is entitled to expect the Council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for it.
- 4.5.2 The Council is committed to maintaining an ethical culture which does not tolerate fraud and corruption. Any such issues will be thoroughly investigated and, if confirmed, dealt with rapidly in the strongest possible way. We will seek the strongest possible sanctions against those who seek to defraud the Council. This includes taking appropriate action against staff, members, contractors, external individuals and organisations.
- 4.5.3 The Chief Finance Officer has overall financial responsibility for the prevention of fraud and corruption and is liable to be called to account for specific failings. The Chief Finance Officer is responsible for ensuring that the Council is adequately resourced to respond to the fraud risk and has effective internal audit, counter fraud and investigatory resources to help Chief Officers prevent, detect and investigate potential cases of fraud and irregularity.
- 4.5.4 The Audit Committee will review and endorse the Council's Counter Fraud and Corruption Strategy and will seek assurance on its effectiveness and that of other fraud related policies and procedures.



- 4.5.5 Internal Audit independently monitors the existence, appropriateness and effectiveness of internal controls and assists managers to fulfil their responsibilities to prevent and detect fraud and corruption through the strengthening of internal controls.
- 4.5.6 Chief Officers are responsible for establishing, implementing and maintaining adequate systems of internal control, and to ensure that the Council's resources are properly applied. They should be familiar with and assess the types and risks of fraud or corruption that might occur within their area of responsibility and ensure that these risks are effectively managed.
- 4.5.7 Chief Officers are responsible for ensuring that their employees are aware of the Council's counter fraud and corruption strategy and know what to do, and what not to do, if they suspect fraud.
- 4.5.8 Chief Officers are responsible for ensuring that all cases of suspected fraud and corruption are investigated and are required to report all suspected cases to the Chief internal Auditor as soon as they arise.
- 4.5.9 Internal Audit will:
- Lead on awareness raising and facilitate corporate learning.
  - Review the effectiveness of the policies and practices the Council has established to safeguard itself against the risk of fraud and corruption.
  - Provide advice and guidance to managers and staff on the Counter Fraud and Corruption Strategy and the Fraud Response Plan.
  - Provide advice on related legislation application e.g. Human Rights Act and RIPA.
  - Maintain a central record of reported fraud and corruption cases.
  - Report to the Chief Officers and the Audit Committee on the use of resources to counter fraud and corruption and of any investigatory work undertaken.
- 4.5.10 The Chief Internal Auditor will take whatever steps are considered necessary, on behalf of the Chief Finance Officer, to ensure all suspected irregularities are investigated and reported in accordance with the Counter Fraud and Corruption Strategy, and Fraud Response Plan. Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration where fraud is suspected.

## **4.6 Use of and Disposal of Assets**

- 4.6.1 Council assets include land, buildings, furniture, vehicles, plant and equipment, computer systems, stocks and stores, money and investments, data and information.
- 4.6.2 The Chief Finance Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets, with the exception of land and buildings which are the direct responsibility of the Head of Planning and Asset Management.

- 4.6.3 Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody of all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer and/or the Head of Planning and Asset Management.

#### **4.7 Confidentiality, Security and Protection of Information**

- 4.7.1 All employees of the Council have a personal responsibility for the protection and confidentiality of information, whether held in manual or computerised records, as specified in the Employees Code of Conduct as part of this Constitution.
- 4.7.2 Specific guidance is given on current IT legislation, risks and security threats in relation to IT use in the Council's Information Security Manual.
- 4.7.3 It is the responsibility of Chief Officers to ensure that all computerised systems within their Service areas are operated in accordance with legal requirements and all appropriate officers are familiar with the guidance provided (e.g. ICT Policy, Personal Information Security Policy ).
- 4.7.4 Financial records, manual and computerised, should be retained and disposed of in accordance with the Council's Document Retention Policy.

#### **4.8 Treasury Management**

- 4.8.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice.
- 4.8.2 Accordingly, the full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.
- 4.8.3 The full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 4.8.4 The Council will receive reports on its Treasury Management policies, practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.
- 4.8.5 The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management policies and practices to the Cabinet.
- 4.8.6 Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have been delegated to the Chief Finance Officer, who will act in accordance with the Council's policy statements and TMPs.
- 4.8.7 The Chief Finance Officer is responsible for reporting to the Cabinet not less than three times in each financial year (Annual Strategy, Mid-Year Report and an Outturn Report) on the activities of the Treasury Management operation and on the exercise of his or her delegated Treasury Management powers.

## **4.9 Banking**

- 4.9.1 All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the Chief Finance Officer.
- 4.9.2 The Chief Finance Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.
- 4.9.3 Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Office are observed and to advise him or her of any changes in their Services that may require a change in these arrangements.

## **4.10 Income Collection**

- 4.10.1 The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.
- 4.10.2 The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.
- 4.10.3 Accordingly, the Cabinet is responsible for approving the Council's Money Laundering Policy.
- 4.10.4 Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Chief Finance Officer who is responsible for nominating an officer (and deputy) to act as the Council's Money Laundering Reporting Officer.
- 4.10.5 Chief Officers are responsible for:
  - Ensuring all income is held securely.
  - Ensuring compliance with income and banking arrangements specified by the Chief Finance Officer.
  - In consultation with the Chief Finance Officer reviewing fees and charges, at least annually.
  - Ensuring that all income is banked and allocated promptly and efficiently.
  - Carrying out reconciliations in an accurate and timely manner.

## **4.11 External Funding**

- 4.11.1 Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Chief Finance Officer.
- 4.11.2 Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.
- 4.11.3 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's

accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

#### **4.12 Debt Collection**

- 4.12.1 The Cabinet is responsible for approving the Council's debt recovery policy.
- 4.12.2 The Chief Finance Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.
- 4.12.3 Chief Officers are responsible for:
- Ensuring effective systems are in place to allow sums due to the Council to be easily identified.
  - Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
  - Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Chief Finance Officer.
  - Establishing and initiating appropriate recovery procedures, including legal action, where necessary, for debts that are not paid promptly.
  - Recommending to the Chief Finance Officer all debts to be written off and to keep records of all sums to be written off.
  - Obtaining the appropriate approval when writing off debts, as specified in the Debt Management Policy.
  - Providing sufficient information regarding outstanding debts to the Chief Finance Officer to determine bad debt provisions at the year end.
  - Ensuring that all appropriate staff are fully aware of the debt management strategy and kept up to date with developments.
  - Ensuring that appropriate controls are in place to ensure that debt management recovery procedures are adhered to.
  - Ensuring that adequate IT systems are in place that support debt management procedures.

#### **4.13 Voluntary Funds and Trust Funds**

- 4.13.1 Chief Officers, in consultation with the Chief Finance Officer, must approve any employee's involvement in a voluntary or trust fund.
- 4.13.2 Chief Officers and/or Trust Fund Managers are responsible for ensuring that funds are managed and administered in accordance with any statutory and specific requirement for each fund, and to equivalent standards as those applicable to the Council generally.

#### **4.14 Purchase Cards**

- 4.14.1 All applications for purchase cards must be approved by the Chief Finance Officer.
- 4.14.2 The Chief Finance Officer will issue guidelines regarding the application process and for their controlled use.

- 4.14.3 Card holders are personally responsible for the security of cards and for ensuring compliance with guidelines for their use.

#### **4.15 Employees**

- 4.15.1 The full Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.
- 4.15.2 The Chief Executive is responsible for providing overall effective management to employees and for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 4.15.3 The Chief Finance Officer is responsible for paying employees securely, accurately and on time and for the payment of travel and subsistence claims.
- 4.15.4 Chief Officers are responsible for ensuring the operation of adequate and effective procedures for payroll and personnel matters to allow the Chief Finance Officer to fulfil his responsibilities.
- 4.15.5 Chief Officers are responsible for ensuring compliance with Council policies in relation to claims for travel and subsistence, and for arranging the most cost effective means of travel and subsistence.
- 4.15.6 Chief Officers are also responsible for controlling employee numbers by:
- Advising the Cabinet on the annual budget necessary to cover estimated staffing levels.
  - Adjusting the staffing levels to that which can be funded within approved budget provision and varying the provision as necessary within that constraint in order to meet changing operational needs.
  - The proper use of recruitment and appointment procedures.
  - Monitoring employee costs through monthly budget reports.
  - Monitoring vacancies.

## **5 FINANCIAL SYSTEMS AND PROCEDURES**

### **5.1 General**

- 5.1.1 Sound systems and procedures are essential for an effective framework of accountability and control.
- 5.1.2 The Chief Finance Officer is responsible for:
- The operation of the Council's accounting and financial systems.
  - The form of accounts and any supporting financial records.
  - Advising Chief Officers on the establishment and operation of trading accounts and business units.

5.1.3 Any changes proposed by Chief Officers to the existing financial systems or the establishment of new systems must first be approved by the Chief Finance Officer.

5.1.4 It is the responsibility of Chief Officers to:

- Ensure the proper operation of financial processes in their own Services and agree with the Chief Finance Officer any changes to these processes to meet their own specific Service needs.
- Ensure that their employees receive relevant and appropriate financial training that has been approved by the Chief Finance Officer.
- Ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection Legislation.
- Ensure that their employees are aware of their responsibilities under Freedom of Information and Data Protection Legislation.

## **5.2 Contracts, Agreements and Purchasing**

5.2.1 All contracts, agreements and purchases are subject to the requirements of the Council's Contracts Procedure Rules specified in this Constitution, and the procedures and financial limits which they prescribe (as revised from time to time), including any advice contained in the Procurement Advice Centre.

5.2.2 The Corporate Procurement Manager is responsible for developing the Corporate Strategy for Commissioning and Procurement and providing advice on procurement issues.

5.2.3 The Head of Legal and Democratic Services is responsible for agreeing the content and format of contracts and agreements and for signing any contract or legal agreement involving a charge upon assets or property.

5.2.4 The Chief Finance Officer is responsible for issuing guidance notes to Chief Officers on the procedures to be adopted in relation to:

- Placing requisitions for goods, supplies and services.
- Placing of official orders.
- Potential financing options e.g. buy, rent or lease.
- Receipt of goods.
- The authorisation of invoices, interim certificates and final accounts for building or construction contracts.
- The system and timescales for the payment of creditors.
- Records and procedures required in relation to monitoring and control of contracts.

5.2.5 The Chief Finance Officer has overall responsibility for ensuring safe and efficient arrangements for all payments.

5.2.6 Chief Officers are responsible for ensuring that:

- Before entering into purchasing commitments, the estimated cost is covered by financial provision in the budget to which it relates.

- Contract Procedure Rules, procurement and payments procedures are applied within their service areas, including adherence to any procurement guidance in the Procurement Advice Centre.
- Appropriate records are maintained to substantiate decisions made under delegated powers.
- All employees within their Service area are aware of the guidance issued by the Chief Finance Officer and for ensuring that effective internal controls are established to ensure compliance.
- All employees within their service area are aware of the Council's Employee Code of Conduct and how this relates to this area.

### **5.3 Payment of Members Allowances**

5.3.1 The Chief Finance Officer is responsible for operating secure and reliable systems to process Members Allowances.

5.3.2 It is the responsibility of Members to submit properly certified claims in accordance with the format and timescales specified by the Chief Finance Officer.

### **5.4 Taxation**

5.4.1 The Chief Finance Officer is responsible for ensuring that appropriate advice and guidance is available to Chief Officers on all taxation issues that affect the Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation.

5.4.2 The Chief Finance Officer is responsible for maintaining the Council's tax records, making all payments, receiving tax credits and submitting tax returns by their due date, as appropriate, and complying with HM Revenue and Customs regulations.

5.4.3 Chief Officers are responsible for compliance with any guidance issued by the Chief Finance Officer.

### **5.5 Council Tax Collection Fund**

5.5.1 The Chief Finance Officer is responsible for the establishment and maintenance of the Collection Fund and will make suitable arrangements for it to be administered in accordance with the Local Government Finance Acts 1987 and 1988 and any other Enactments relating to the proper administration of public funds.

5.5.2 The Chief Finance Officer will undertake the day to day management and administration of the Collection Fund, including the maintenance of a Collection Fund Account for administering the raising and recovery of Council Tax and for paying precepts and demands on those funds.

### **5.6 Business Rates Retention Scheme**

5.6.1 The Chief Finance Officer is responsible for the establishment and maintenance of a separate Collection Fund in respect of Business Rates and

will make suitable arrangements for it to be administered in accordance with Schedule 7B of the Local Government Finance Act 1988.

5.6.2 The Chief Finance Officer will undertake the day to day management and administration of the Collection Fund including the maintenance of a Collection Fund Account for administering the raising and recovery of Business Rates and for paying precepts and demands on those funds.

## **5.7 Housing Revenue Account**

5.7.1 The Chief Finance Officer is responsible for:

- Making arrangements for the preparation of annual Housing Revenue Account Budgets, (revenue and capital) as part of the Council's budget setting process.
- Making recommendations to the Cabinet and full Council to allow the Council to fulfil its statutory duties in relation to Housing Rent determinations and securing decent homes compliance.
- Preparing annual final accounts for the Housing Revenue Account to be incorporated into the Councils' Annual Statement of Accounts.

## **6 PARTNERSHIPS**

6.1 The Cabinet is the focus for forming partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.

6.2 The Council or the Cabinet can delegate its functions, including those relating to partnerships, to officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.

6.3 The Chief Executive or the appropriate chief officer or senior officer nominated by the chief officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.

6.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.

6.5 The Chief Finance Officer is responsible for ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.

6.6 Chief Officers will observe the Financial Management Standard relating to Area Action Partnerships as described in FMS 28.



## **Appendix A**

### **FINANCIAL MANAGEMENT STANDARDS**

FMS01	Introduction to Financial Management Standards
FMS02	Budget Preparation & Medium Term Financial Planning
FMS03	Budget Monitoring and Reporting
FMS04	Accounting Policies
FMS05	Accounting Records and Returns
FMS06	Preparation and Monitoring of the Capital Programme
FMS07	Annual Statement of Accounts
FMS08	Performance Plans
FMS09	Maintenance of Reserves
FMS10	Risk Management
FMS11	Audit Requirements
FMS12	Internal Control
FMS13	Safeguarding of Assets
FMS14	Insurance
FMS15	Treasury Management
FMS16	Banking
FMS17	Income Collection
FMS18	Debt Recovery
FMS19	Corporate Credit Cards
FMS20	Purchase Cards
FMS21	Payroll & Personnel Requirements
FMS22	Taxation
FMS23	Trading Accounts and Business Units
FMS24	Contracts, Agreements & Purchasing
FMS25	Partnerships
FMS26	External Funding
FMS27	Work for Third Parties
FMS28	Area Action Partnerships

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## Appendix 10: Officer Delegations

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### Schedule 1

#### Table 3

### Delegations to the Corporate Director, Children and Adults Services

#### 1. Executive Functions

Subject to the requirement set out below and in compliance with the provisions of Table 1 above, the Corporate Director, Children and Adults Services, is authorised to discharge any function of the Executive in relation to:

1.1 The exercise of the Council's powers and duties in relation to the provision of Social Services so far as those functions relate to:-

- Children, or;
- Children and young people leaving care, or;
- Adults

1.2 Issuing and conducting care proceedings in accordance with the Children Act 1989 and all other relevant legislation and guidance.

1.3 Functions exercisable on behalf of a NHS body so far as it relates to adults, children and young people.

1.4 The Council's powers and duties in relation to the provision and commissioning of education and training opportunities for young people as determined by the Education Act 1996 and Education and Skills Act 2008 and all other legislation and guidance relating to education and training for young people.

1.5 The effective and lawful operation of a secure unit in accordance with the licence requirements set by the Office for Standards in Education, Children's Services and Skills (Ofsted).

1.6 The provision of assessment and treatment services for children and young people in accordance with the Mental Health Act 1983.

~~1.7 To exercise the powers set out in Table 7 relating to the Building Schools for the Future programme. Moved to Neighbourhoods~~

1.7 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the provision of mental health services including applications to displace nearest relatives and appointment as nearest relative and the acceptance and exercise of guardianships under the Mental Health Act 1983.

1.8 To formally approve and authorise Mental Health Professionals who are eligible and qualified to be considered as Approved Mental Health Practitioners.

1.9 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the provision of services provided under the Mental

Capacity Act 2005 including appointment as Deputy and applications to the Court of Protection.

1.10 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory complaints procedure.

1.11 Setting and varying rates for providers of all forms of social care and housing support in consultation with the Corporate Director, Resources.

1.12 Setting and varying fees and charges for delivery of services.

1.13 Undertaking joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning and provision of jointly operated services within the County, including the development of Cooperation Agreements and Partnerships Agreements for joint working arrangements.

1.14 Protection and promotion of the welfare of vulnerable adults including vulnerable young people moving into adulthood.

1.15 To meet the requirements as set down by regulatory bodies in relation to the operation of services within Adult's Services and Children's Services.

~~1.17 Provision, operation and commissioning of a Welfare Rights Advisory Service. Moved to Resources~~

1.16 Provision, operation, commissioning and variation of payments to external providers in respect of services arranged by the Corporate Director of Children and Adults Services.

~~1.19 Provision, operation and commissioning of services in relation to Gypsies and Travellers. Moved to Neighbourhoods/RED~~

1.17 The provision, operation and commissioning of services in relation to Adult Learning.

1.18 The provision, operation and commissioning of vocational training and allied services for persons over compulsory school age, including the provision of secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty assessment and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.

1.19 To coordinate the transition of service provision for children who will require services into adulthood.

1.20 Provision, operation and commissioning of a Health Improvement service.

~~1.21 Provision, operation and commissioning of a Community Safety service. Moved to Neighbourhoods~~

In carrying out these delegated functions, the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

## 2. Specific Delegations

2.1 To coordinate the Council's response to Section 17 of the Crime and Disorder Act 1998 and ensure the crime and disorder implications of the Council's decisions are properly considered.

2.2 To ~~provide advice on community safety issues to all council services and to~~ provide support and advice to statutory partnerships in community safety/crime and disorder.

~~2.3 In consultation with the Head of Legal and Democratic Services and Corporate Director, Neighbourhood Services, take enforcement action under Sections 77, 78 and 79 of the Criminal Justice and Public Order Act 1994 in respect of the removal of unauthorised encampments and Section 1 of the Crime and Disorder Act 1998 and Section 85 of the Anti-Social Behaviour Act 2003. Moved to Neighbourhoods~~

2.3 To meet the requirements as set down by regulatory bodies in relation to the employment, registration and training of all registerable staff.

2.4 To make ~~applications under~~ the Forced Marriage (Civil Protection) Act 2007.

2.5 To advise and contribute to the preparation of the Joint Strategic Needs Assessment and Joint Health & Wellbeing Strategy in conjunction with the Director of Public Health ~~and local Clinical Commissioning Groups.~~

2.6 To work in collaboration with partners in the development of the Safe Durham Partnership Strategic Assessment on behalf of the Safe Durham Partnership and to chair the Safe Durham Partnership.

2.7 To license the employment of children ~~in accordance with the~~ Children and Young Persons Act 1933.

2.8 To lead and coordinate the local Safeguarding Adults Board and ~~to coordinate~~ the Local Safeguarding Children Board in accordance with legislation and guidance.

3. The matters set out below are, in addition, **delegated to the Director of Public Health;**

3.1 To take responsibility for the management of the Council's Public Health Services, with professional responsibility and accountability for their effectiveness, availability and value for money.

3.2 To contribute to and influence the work of the NHS Commissioners, ensuring a whole system approach across the public sector and ensuring NHS commissioners receive the public health advice they need.

3.3 To provide leadership, expertise and advice to Senior Officers and Elected Members on a range of issues from outbreaks of disease and emergency preparedness through to improving local people's health concerns around access to health services.

3.4 To provide the public with expert, objective advice on health matters.

3.5 To promote action across the life course, working together with council colleagues such as the Director of Children and Adults Services and with NHS colleagues.

3.6 To work with local Criminal Justice Partners and Police and Crime Commissioners to promote safer communities, including cooperating with the police, the probation service and the prison service to assess the risk posed by violent or sexual offenders.

3.7 Under the NHS Act 2006 and the Health & Social Care Act 2012, to discharge any functions in relation to the corporate public health duties of the Council including responsibility for writing the annual report on the health of the local population. (The Council has a duty to Publish this report under section 73B (5) & (6) of the 2006 Act and Section 31 of the 2012 Act).

3.8 Under Section 73A (1) of the 2006 Act inserted by section 30 of the 2012 Act;

- to undertake duties to take steps to improve public health
- To undertake such other public health protection or health improvement functions that the Secretary of State delegates to Local Authorities either by arrangement or under regulations- these include services mandated by regulations under Section 6C of the 2006 Act Inserted by section 18 of the 2012 Act
- to respond as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications
- to provide Healthy Start Vitamins (under the Healthy Start and Welfare Food Regulations 2005) for maternity or child health clinics
- to consult and make decisions on Fluoridation Schemes

3.9 Under section 6C of the NHS Act 2006;

- to ensure appropriate access to sexual health services
- to take responsibility for the National Child Measurement Programme
- to take responsibility for the NHS Health Check Assessment

3.10 To act as either as lead or supporting Director of Public Health chairing or co-chairing the Local Health Resilience Partnership (LHRP) for County Durham, Darlington and Tees Valley.

3.11 To oversee the NHS screening programmes, both cancer and non-cancer, ante-natal and children's screening programmes, ensuring the health of the population is adequately protected and raising issues and concerns appropriately.

3.12 To oversee the NHS immunisation programmes including children 0-5 years, HPV and seasonal flu and any other that the Secretary of State instructs, including catch up programmes, raising issues and concerns appropriately.

3.13 To discharge the Council's responsibilities in relation to communicable and infectious diseases, including healthcare acquired infections.

3.14 Implementing or determining, subject to any rights of review or appeal which may apply, all matters concerning the Statutory Public Health complaints procedure.

3.15 Setting, varying and recovering charges in respect of certain steps taken in the exercise of health improvement duties.

## **Schedule 2**

### **Table 4**

#### **Delegations to the Corporate Director, Regeneration and Economic Development**

##### **Executive Functions**

Subject to the requirement set out below and in compliance with the provisions of Table 1 above, the Corporate Director, Regeneration and Economic Development is authorised to discharge any function of the Executive in relation to:-

- Spatial Planning , Regeneration and Economic Policy
- Housing
- Transport Strategy
- Highways and Local Transport Planning
- Traffic Management, in consultation, where required with the Highways Committee.
- Network Management and Street Works in relation to the New Roads and Street Works Act 1991 and the Traffic Management Act 2004 including enforcement
- Strategic Tourism
- Conservation and Archaeology
- Town Twinning
- Public rights of way
- Common Land and Town and Village Greens
- Management of the Council's Land and Property Assets
- The transport functions delegated to the Council by the Combined Authority formed by the Durham, Gateshead, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (the Combined Authority).

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

##### **Specific and non-executive delegations**

1. To give consent on behalf of the Council to the County Durham Development Company Limited incurring expenditure of money provided by the Council.
2. To review decisions made by the Head of Planning and Assets relating to the list of assets of community value.
3. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within the Appendix to this Table to reflect new or modified statutory provisions.

The following matters are, in addition, delegated to the Head of Transport and Contract Services:

4. To exercise all of the Council's functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations except matters reserved to the Highways Committee.
5. To exercise the Council's powers under the Durham City Council Act 1985 in relation to the temporary closure of footpaths.
6.
  - (a) To grant street-works licences under Section 50 of the New Roads and Streetworks Act 1991 (the 1991 Act)
  - (b) To issue fixed penalty notices to statutory undertakers who fail to serve correct notices under the New Roads and Street Works Act 1991 to carry out works on the road network.
7. To cancel penalty charge notices in respect of parking contraventions under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.
8. To exercise the Council's powers under the Traffic Management Act 2004 and Transport Act 2000 to issue a penalty charge notice in connection with parking offences and part of the civil parking regime.
9. To deal with the provision and maintenance of bus stop infrastructure in highways and, if necessary, land abutting highways.
10. To undertake non-statutory consultations before implementing proposals to locate bus stop infrastructure, subject to consultation with Highways Committee before exercising this delegated power if there are unresolved representations to such proposals.
11. Provision and operation of closed circuit television in accordance with the Criminal Justice and Public Order Act 1994 and the Private Security Industry Act 2001.
12. To discharge the regulatory and enforcement functions of the Council under the legislation set out in the Appendix to this Table.
13. To enter into Section 38 of the Highways Act 1980 agreements to adopt and thereafter maintain highways at the public expense.

The following matters are, in addition, delegated to the Head of Planning, and Assets:

14. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 or under any related principal or secondary legislation, except the following –



- (a) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days that any Member of the Council requests be determined by the Planning Committee (such must be made in writing to the Head of Spatial Policy, Planning, Assets and Environment specifying material planning grounds on which the request is made and received by the Head of Spatial Policy, Planning, Assets and Environment within 21 days of publication on the weekly list);
- (b) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days where a Member of the Council or an officer of the Planning Development Service or their spouse/partner or children has an interest in the property or land which is the subject of the application or notification and where there is an objection to the application or notification;
- (c) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days where despite a Town or Parish Council having expressed objection or support on material planning grounds the officer is minded to recommend the application or notification contrary to the Town or Parish Council wishes and the Town or Parish Council have made a specific request in writing for the application or notification to go before a planning committee which is received by the Head of Planning and Assets within 21 days of publication on the weekly list;
- (d) Major developments (but not including Reserved Matters, applications for extension of time or applications for a material minor amendment) comprising –
  - (i) ten or more dwellings (detailed and outline applications) except where the application is for a substitution of house types on a scheme already benefiting from an extant planning permission;
  - (ii) industrial floor space of 5000 m<sup>2</sup> or more comprised in Use Class B1 (Business) and/or Use Class B2 (General Industrial) and/or Use Class B8 (Storage or Distribution); or
  - (iii) all other developments not falling within use classes C3, C4, B1, B2 or B8 where the floor space is 1000 m<sup>2</sup> (gross) or more or the site area is 1 hectare or more except applications where the use or building would be for agriculture or personal equestrian use;
- (e) those applications for planning permission or notifications which have a relevant timescale of more than 28 days which in the opinion of the Head of Planning and Assets ought to be determined by Committee due to their controversial nature;
- (f) those applications for planning permission or notifications which have a relevant timescale of more than 28 days recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;

- (g) those applications for planning permission or notifications which have a relevant timescale of more than 28 days where there is a significant departure from Development Plan policy and which would be required to be the subject of a notification to the Secretary of State;
15. To decline to determine planning applications under Sections 70A, 70B and 70C of the Town and Country Planning Act.
  16. To take all necessary steps in connection with the defence of appeals against any refusal or failure to determine any of the applications and notifications mentioned at paragraph 15 above.
  17. To respond to any pre-application or other consultation on nationally significant infrastructure projects submitted or to be submitted to the Major Infrastructure Planning Unit under the Planning Act 2008.
  18. To authorise the making of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995.
  19. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement.
  20. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council.
  21. Authorise the taking of prosecution action, applications for injunctions and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning referred to in the Appendix to this Table.
  22. To administer simple and conditional cautions to persons guilty of criminal offences under the legislation referred to in the Appendix to this Table and in accordance with PACE and Home Office guidance.
  23. Authorise the taking of default action under Sections 178 & 219 of the Town and Country Planning Act 1990.
  24. Authorise the making of Orders under Section 257 of the Town and Country Planning Act 1990.
  25. To apply to the Secretary of State for an order under Section 249 of the Town and Country Planning Act 1990.
  26. To exercise powers of revocation/modification of planning permissions (Section 97), discontinuance of a use/alteration or removal of a building (Section 102 & Schedule 9) and the making of Prohibition or Suspension Orders (Schedule 9) of the Town and Country Planning Act 1990.

27. Authorise the making, confirmation, revocation and variation of Tree Preservations Orders.
28. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, determine whether an Environmental Impact Assessment is required (screening) and the information required (scoping).
29. Authorise individual named officers to exercise powers of entry contained in the following:
  - The Hedgerows Regulations 1997
  - Town and Country Planning Act 1990
  - Planning (Listed Buildings and Conservation Areas) Act 1990
  - Planning (Hazardous Substances) Act 1990
  - Building Act 1984
  - Fire Safety and Safety of Places of Sport Act 1987
  - Safety of Sport Grounds Act 1975
  - Local Government (Miscellaneous Provisions) Act 1982
  - Party Wall etc Act 1996
  - Planning Act 2008
  - or such other Acts of Parliament as relate to the relevant statutory functions of the planning authority;
30. To administer and determine complaints about high hedges under the Anti-Social Behaviour Act 2003.
31. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
32. Act under and in respect of –
  - (a) Sections 16, 18 to 21, 23 to 25, 32, 35 and 36, Building Act 1984;
  - (b) Sections 71 to 73 and 77 to 83, Building Act 1984;
  - (c) Building Regulation 14 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building, works or fittings  
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  - (d) Sections 29-32, Local Government (Miscellaneous Provisions) Act 1982;
  - (e) Party Wall etc Act 1996;
33. Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with the Safety of Sports Grounds Act 1975 and Part III, Fire Safety and Safety of Places of Sport Act 1987;

34. To authorise, sign and serve all notices and deal with all applications, licences, revocations and suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.
35. In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.
36. To approve the principle of acquiring property at a price not exceeding £60,000.
37. To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council.
38. To negotiate the acquisition of wayleaves, licences etc. required to facilitate the discharge of the Council's functions and to accept the dedication or transfer of land to be maintained as public open space subject to satisfactory terms being negotiated for contribution to the cost of maintenance.
39. To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially affecting the use to which it is or might be put.
40. To authorise the use of Council land as a permissive right of way and/or to dedicate Council land as a public right of way.
41. In consultation with the appropriate Service representative to grant leases for up to 21 years on any council owned property, whether or not it has been declared surplus.
42. In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.
43. To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.
44. To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.
45. To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance.
46. To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

47. To negotiate abortive costs in the event of a transaction not proceeding in circumstances where the Council has a liability to pay costs.
48. Where required as part of the appropriate management of the Council's assets, to authorise the demolition of Council buildings.
49. To approve disposals and appropriations of Open Space and Public Walks and Pleasure Grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875 subject to seeking guidance from the Highways Committee in the event of unresolved objections being received.
50. To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto, as defined in Part 5, Chapter 3 of the Localism Act 2011.
51. All duties arising out of the establishment of the Business Improvement Districts.
52. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.

The following matters are, in addition, delegated to the Head of Economic Development and Housing:

53. To exercise the Council's function in relation to housing including:-
  - (a) determining the conditions to be included in tenancy agreements;
  - (b) making any decisions necessary to comply with the Council's obligations to secure tenants in compliance with the legislation referred to in the Appendix to Table 4;
  - (c) the determination of any applications for grant assistance pursuant to the legislation listed in the Appendix at Table 4;
  - (d) the allocation of tenancies in accordance with policies approved by the Council;
  - (e) to determine all requests for consents required by the terms of tenancy agreements;
  - (f) to authorise action to enforce a breach of condition in tenancy agreements, including in consultation with the Head of Legal and Democratic Services where necessary, the institution of legal proceedings;
  - (g) the exercise of the Council's enforcement powers under the legislation listed in the Appendix to Table 4 in relation to private sector housing;
  - (h) to authorise the implementation of any action necessary to recover monies due to the Council as a result of its exercise of the powers contained in legislation listed in the Appendix at Table 4;

- (i) to investigate and determine all applications made to the Council under its powers and duties to deal with homelessness in the legislation described in the Appendix at Table 4:
- (j) to authorise any expenditure required in the exercise of the Council's functions to assist the homeless.
- (k) To amend agreements entered with Arms length Management organisations;
- (l) To respond on the Council's behalf to requests for consent to alterations to the Articles of Association of Large Scale Voluntary Transfer companies and Arms Length Management Organisations.

## Appendix to Table 4

Acquisition of Land Act 1981  
Anti-Social Behaviour Act 2003  
Building Act 1984  
Commons Act 1876  
Commons Act 2006  
Commons Registration Act 1965  
Countryside and Rights of Way Act 2000  
Criminal Justice and Public Order Act 1994  
Durham City Council Act 1985  
Electricity at Work Act 1989  
Environmental Protection Act 1990  
Environment Act 1995  
Fire Safety and Places of Sport Act 1987  
Fraud Act 2006  
Gas Safety (Installation and Use) Regulations 1998  
The Hedgerows Regulations 1997  
Highways Act 1980  
Home Energy Conservation Act 1997  
Homelessness Act 2002  
Housing Act 1985  
Housing Act 1988  
Housing Act 1996  
Housing Act 2004  
Housing and Regeneration Act 2008  
Housing Grants Construction and Regeneration Act 1996  
Inclosure Act 1857  
Land Compensation Act 1973  
Landlord and Tenant Act 1985  
Leasehold Reform Housing and Urban Development Act 1993  
Local Democracy, Economic Development and Construction Act 2009  
Local Government, Planning and Land Act 1980  
Local Government (Miscellaneous Provisions ) Act 1982  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government Act 1972  
Local Government Act 2003  
Local Government and Housing Act 1989  
Localism Act 2011  
Local Transport Act 2008  
National Parks and Access to the Countryside Act 1949  
Natural Environment and Rural Communities Act 2006  
New Roads and Street Works Act 1991  
Open Spaces Act 1906  
Party Wall etc. Act 1996  
Planning and Compulsory Purchase Act 2004  
Planning (Hazardous Substances) Act 1990  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Planning Act 2008  
Prevention of Damage by Pests Act 1949  
Private Security Industry Act 2001  
Public Health Act 1936  
Public Health Act 1961  
Protection from Eviction Act 1977

Railway Clauses Consolidation Act 1985  
Regulatory Reform (Housing Assistance) (England and Wales) Order 2002  
Rights of Way Act 1991  
Road Traffic Regulation Act 1984  
Safety of Sports Grounds Act 1975  
The Conservation of Habitats and Species Regulations 2010  
Town and Country Planning (Use Classes Order) 1987  
Town and Country Planning Act 1990  
Town and Country Planning (Control of Advertisements) (England) Regulations 2007  
Town and Country Planning (Environmental Impact Assessment) Regulations 2011  
Town and Country Planning (General Permitted Development) Order 1995  
Town and Country Planning (Development Management Procedure) (England)  
Order 2010  
Town and Country Planning (Local Planning) (England) Regulations 2012  
Traffic Management Act 2004  
Town Police Clauses Act 1847  
Traffic Management Act 1984  
Traffic Management Act 2004  
Transport Act 1985  
Transport Act 2000  
Warm Homes and Energy Conservation Act 2003  
Wildlife and Countryside Act 1981



## **Schedule 3**

### **Table 5**

#### **Delegations to the Corporate Director, Neighbourhood Services**

##### **Executive Functions**

Subject to the requirement set out below and in compliance with the provisions of Table 1 above the Corporate Director, Neighbourhood Services is authorised to discharge any function of the Executive in relation to:-

- Highway design and maintenance
- Highway speed management
- Clean Neighbourhoods and Environment
- Open Spaces
- Leisure and Recreation
- Public Health and Pest Control
- Waste Management and Recycling
- Street Cleansing
- ~~Parking Control~~
- Building and Technical Services
- Allotments
- Building Compliance and Repairs
- Construction Compliance
- Traffic Management, in consultation, where required, with the Highways Committee in relation to functions under the Road Traffic Regulation Act 1984.
- Community Safety
- The Waste Solution Programme ~~as set out in Table 7~~
- Private Sector Housing Enforcement
- Animal Welfare/Infectious Disease Control
- Stray Dogs
- Trading Standards and Consumer Protection
- ~~Scientific Services~~
- Burial and Cremation
- Fleet Management
- Vehicle Testing
- Response to unauthorised Gypsy, Roma and Traveller Encampments
- Facilities Management
- Catering Management
- Tree Management
- Customer Services
- Street Naming and Numbering
- Culture and Sport Activities including the provision of facilities and venues
- Countryside Estate Management
- Provision, operation and commissioning of public libraries, museums, art galleries, theatres, arts development, heritage facilities, ~~with the exception of major changes in the pattern of the provision including permanent closure of these facilities.~~

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

### **Specific and Non-Executive Delegations**

1. To exercise all of the Council's functions including licensing, registration, making of orders, issue of notices and enforcement in respect of the following matters referred to in Schedule 1 to the 2000 Regulations:
  - (a) performances of hypnotism;
  - (b) premises for acupuncture, tattooing, ear piercing and electrolysis;
  - (c) pleasure boats and pleasure vessels;
  - (d) night cafes and take-away food shops;
  - (e) sale of non-medicinal poisons;
  - (f) premises for the preparation of food including registration;
  - (g) scrap yards;
  - (h) pet shops and the breeding and boarding of dogs or other animals;
  - (i) animal trainers;
  - (j) knackers' yards;
  - (k) charitable collections;
  - (l) operation of loudspeakers;
  - (m) street works licences;
  - (n) movement and sale of cattle and pigs;
  - (o) all the provisions of the Highways Act 1980;
  - (p) storage of celluloid;
  - (q) meat, fish, dairy and egg product establishments and butchers' shops;
  - (r) motor salvage operations;
  - (s) health and safety at work;
  - (t) smoke-free premises;
  - (u) caravan and camping sites and moveable dwellings.

2. To exercise the Council's functions in relation to:
  - (a) the control of pollution and the management of air quality;
  - (b) statutory nuisances, as referred to in Schedule 2 to the 2000 Regulations;
  - (c) contaminated land;
  - (d) port health;
  - ~~(e) the determination of applications for approval of drainage systems submitted pursuant to Schedule 3 of the Flood and Water Management Act 2010.~~

The matters set out in paragraphs 3 to 15 below are, in addition, delegated to the Head of Environment, Health and Consumer Protection:

3. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's licensing, approval, registration and enforcement functions, including the institution of legal proceedings under legislation set out in Appendix 1 to this Table and all associated secondary legislation as amended from time to time.
4. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within Appendix 1 to this Table to reflect new or modified statutory provisions.
5. Subject to Appendices 2, 3 and 4 to this Table to authorise, suspend, vary, transfer, extend or revoke permits, licences, certificates, registrations and approvals issued under the legislation set out in the Appendix 1 to this Table including all relevant statutory provisions.
6. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation as referred to in paragraph 3 above and in accordance with PACE and the Home Office Guidance.
7. To authorise suitably qualified and competent staff within the Environment, Health and Consumer Protection Division and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation referred to in paragraph 3 above.
8. To authorise another local authority to institute legal proceedings in respect of a contravention of the legislation set out in Appendix 1 to this Table where related contraventions are being investigated by that authority.
9. To grant authorisations in relation to illegal money lending and unfair trading practices.
10. Power to agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.

11. Power to appoint Proper Officers and alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.
12. Power to appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.
13. To authorise Officers to institute and or defend on behalf of the Council any legal proceedings which the Council by itself, or by a duly empowered Committee, may decide to take. In this respect, nominated staff are hereby authorised to appear in Court in person, or to be represented by a duly appointed officer of the Council in accordance with Section 223 of the Local government Act 1972 or to be represented by a duly instructed solicitor.
14. To determine those applications and matters in relation to Licensing and Gambling as are referred to in Appendices 2, 3 and 4 to this Table.
15. To agree terms of conditions and licences in accordance with published best practice and/or guidance.

The matters set out in paragraphs 16 to 21 below are, in addition, delegated to the Head of Direct Services and Head of Technical Services:

16. To exercise, in consultation with the Head of Legal and Democratic Services the Council's enforcement functions, including the institution of legal proceedings, under legislation set out in Appendix 5 to this Table and all associated secondary legislation relevant statutory provisions, as amended from time to time.
17. To authorise suitably qualified and competent staff within Neighbourhood Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation referred to in Appendix 5 to this Table.
18. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.
19. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation as referred to in Appendix 5 to this Table and in accordance with PACE and the Home Office Guidance.
20. To discharge the regulatory and enforcement functions of the Council under the legislation set out in Appendix 5 to the Table.
21. The determination of applications for approval of drainage systems submitted pursuant to Schedule 3 of the Flood and Water Management Act 2010

The matter set out in paragraph 22 below is, in addition, delegated to the Head of Culture and Sport

22. In consultation with the Head of Legal and Democratic Services to take enforcement action under bye-laws relating to arts, libraries and museums.

## Appendix 1 to Table 5

Administration of Justice Act 1970  
Agriculture Act 1970  
Agriculture (Miscellaneous Provisions) Act 1968  
Agricultural Produce (Grading and Marking) Acts 1928 and 1931  
Animal Boarding Establishments Act 1963  
Animal By Products (Enforcement) (England) Regulations 2013  
Animal Feed (England) Regulations 2010  
Animal Health Act 1981  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Building Act 1984  
~~Business Names Act 1985~~  
Caravan Sites and Control of Development Act 1960  
Caravan Sites Act 1968  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Acts ~~1933 and~~ 1991  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Companies Act 1985 and 2006  
Consumer Contracts (information, Cancellation and Additional Charges) Regulations 2013  
Consumer Credit Act 1974  
Consumer Protection (Distance Selling) Regulations 2000  
Consumer Protection Act 1987  
Consumer Protection from Unfair Trading Regulations 2008  
Control of Pollution (Amendment) Act 1989  
Control of Pollution Act 1974  
Copyright, Design and Patents Act 1988  
Crime and Disorder Act 1998  
Criminal Justice Act 1988  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Courts and Legal Services Act 1990  
Dangerous Substances and Explosive Atmospheres Regulations 2002  
Dangerous Wild Animals Act 1976  
Development of Tourism Act 1969  
Education Reform Act 1988  
Employment of Women, Young Persons and Children Act 1920  
Energy Act 1976  
~~Energy Conservation Act 1981~~  
Enterprise Act 2002  
Environmental Damage (Prevention and Remediation) (Regulations) 2009  
Environmental Protection Act 1990  
Environment Act 1995  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Acts ~~1975 to 1976~~ 1875  
Explosives (Age of Purchase etc) Act 1976

Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Feed (Hygiene and Enforcement) (England) Regulations 2005  
Food Act 1984  
~~Food Hygiene (England) Regulations 2006~~  
Food Safety and Hygiene (England) Regulations 2013  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Fraud Act 2006  
Gambling Act 2005  
Hallmarking Act 1973  
Health Act 2006  
Health and Safety at Work etc. Act 1974  
Highways Act 1980  
House to House Collections Act 1939  
Housing Act 2004  
Hypnotism Act 1952  
~~Insurance Brokers (Registration) Act 1977~~  
International Health Regulations 2005  
Intoxicating Substances (Supply) Act 1985  
Land Drainage Act 1976  
Land Drainage Act 1991  
Land Drainage Act 1994  
Licensing Act 2003  
Local Authorities Goods and Services Act 1970  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Localism Act 2011  
Medicines Act 1968  
Mobile Homes Act 2013  
~~Mock Auctions Act 1961~~  
Motor Vehicle Salvage Operators Regulations 2002  
National Assistance Act 1948  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Official Feed and Food Controls (England) (Amendment) Regulations 2011  
Performing Animals (Regulation) Act 1925  
Pesticides Act 1998  
Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951  
Pet Animals Act 1951 Amendment Act 1983  
Petroleum Consolidation Act 1928  
Poisons Act 1972  
Police, Factories etc. (Miscellaneous Provisions) Act 1916  
Pollution Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Prices Acts 1974 and 1975  
~~Property Misdemeanors Act 1991~~  
Protection of Animals Act 1911 (~~as amended~~)  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Diseases) Act 1984

Public Health (Ships) Regulations 1979  
Public Health (Ships) (Amendment) (England) Regulations 2007  
~~Public Health Acts Amendment Act 1907~~  
Riding Establishments Acts 1964 and 1970  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Acts 1988 and 1991  
Road Traffic Offenders Act 1988  
Road Traffic (Consequential Provisions) Act 1988  
Scrap Metal Dealers Act 2013  
~~Shops (early Closing Day) Act 1995~~  
Slaughter of Poultry Act 1967  
Slaughterhouse Act 1974  
Solicitors Act 1974  
Sunbeds (Regulations) Act 2010  
Sunday Trading Act 1994  
Telecommunications Act 1984  
~~Timeshare Act 1992~~  
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010  
Tobacco Advertising and Promotions Act 2002  
Town and Country Planning Act 1990  
Town Police Clauses Act 1847  
Trade Descriptions Acts 1968 ~~and 1972~~  
Trade Marks Act 1994  
~~Trading Representations (Disabled Persons) Act 1958 and 1972~~  
Trading Stamps Act 1964  
Traffic Management Act 2004  
Unsolicited Goods and Services Acts 1971 ~~and 1975~~  
Unsolicited Goods and Services Amendment Act 1975  
Video Recordings Acts 1984, 1993 ~~and 2010~~  
Water Industries Act 1991  
Weights and Measures Act 1985  
~~Young Persons (Employment) Acts 1938 and 1964~~  
Zoo Licensing Act 1981~~7~~



**Appendix 2 to Table 5 - Delegation of Licensing Act 2003 responsibilities**

<b>Matter to be dealt with</b>	<b>(1) Full Committee</b>	<b>(2) Sub-Committee</b>	<b>(3) Officers</b>
Application for Personal Licence		If a Police objection is made	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated Premises Supervisor		If a Police objection is made	All other cases
Request to be removed as designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection is made	All other cases
Application for interim authorities		If a Police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious, etc.			All cases, in consultation with the Chair or Vice Chair of the Statutory Licensing Committee
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police representation to a temporary event notice		All cases	

### Appendix 3 to Table 5 - Gambling Act 2005 – Scheme of Delegations

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application for Premises Licence where no relevant representations received	Licensing Sub-Committee  Officers
Section 162	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Officers in consultation with Chairman or Vice-Chairman at the Licensing Committee
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application to vary Premises Licence in respect of which no representation received	Licensing Sub-Committee  Officers
Section 188	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn) Determination of application for transfer of Premises Licence where no representations received	Licensing Sub-Committee  Officers
Section 193	Revocation of Premises Licence for failure to pay annual fee	Officers
Section 194	Determination that a Premises Licence has lapsed	Officers
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn) Reinstatement of lapsed Premises Licence where no representation is received	Licensing Sub-Committee  Officers
Section 198	Rejection of application for review of Premises Licence on various grounds	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 200	Initiation of review of Premises Licence	Officers
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) Determination of application for provisional statement in respect of which no representations received	Licensing Sub-Committee  Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	<del>Issue of counter notice in response to Temporary Use Notice</del> Hearing in relation to a Temporary Use Notice or to agree with other parties in the event of an objection that a hearing is unnecessary	<del>Licensing Sub-Committee</del> Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in his absence the Central Services Manager) (Refusal to be exercised only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Schedule 11 Paragraph 44 Paragraph 48	Registration of society for small society lottery Refusal of application for registration of society for small society lottery	Officers  Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with the Chairman or Vice-Chairman of the Licensing Committee
Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Schedule 12 Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
Paragraph 15	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	Officers
Paragraph 21	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)	Licensing Sub-Committee
Paragraph 22	Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received	Officers
Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Sub-Committee
Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13 Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Licensing Sub-Committee
Paragraph 17	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received	Officers
Paragraph 17	Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers
Schedule 14 Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation with Chairman or Vice-Chairman of Licensing Committee)
Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

#### Appendix 4 to Table 5 - Hackney Carriage and Private Hire Licensing

Matters to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Drivers Licence where there are no concerns over their fitness and propriety			X
Application for a Drivers Licence where doubts on fitness and propriety are minor traffic offences			X
Application for a Drivers Licence where there is a lapse of time or circumstances for convictions fall outside of the Policy		X	
Application for a Drivers Licence where there is any other doubt on suitability		X	
Revocation of Driver or Operator Licence		X	
Revocation of Vehicle Licence			X
Suspension of Licences			X

## Appendix 5 to Table 5

Administration of Justice Act 1970  
Allotments Act 1922, 1925 and 1950  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Burial Act 1853  
Burial Act 1857  
Civic Amenities Act 1967  
Clean Neighbourhoods and Environment Act 2005  
Coast Protection Act 1949  
Conservation of Habitats and Species Regulations 2010  
Construction, Design and Management Regulations 2007  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright, Designs and Patents Act 1988  
Countryside Act 1968  
Countryside and Rights of Way Act 2000  
Cremation Act 1902 and 1952  
Criminal Damage and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Criminal Damage Act 1971  
Crime and Disorder Act 1998  
Dangerous Dogs Act 1991  
Disability Discrimination Act 2005  
~~Directives and Regulations Dogs (Fouling of Land) Act 1996~~  
~~Dogs (Fouling of Land) Act 1996~~  
Electricity at Work Act 1989  
Environment Act 1995  
Environmental Protection Act 1990 (Part II, III and IV and all associated EU  
~~Directives and Regulations) (Part VIII)~~  
Firearms Act 1968  
Flood and Water Management Act 2010  
Hazardous Waste (England and Wales) Regulations 2005  
Health and Safety at Work Act 1974  
Highways Act 1980  
Household Waste and Recycling Act 2003  
Housing Grants, Construction and Regeneration Act 1996  
Land Drainage Act 1991 and 1994  
Landfill (England and Wales) Regulations 2002  
Local Democracy, Economic Development and Construction Act 2009  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Localism Act 2011  
Local Authorities' Cemeteries Order 1977  
Local Transport Act 2008  
Management of Health and Safety at Work Act Regulations 1999  
Museums and Galleries Act 1992  
National Parks and Access to the Countryside Act 1949  
Natural Environment and Rural Communities Act 2006  
New Roads and Street Works Act 1991  
Occupiers Liability Act 1984

Offender Management Act 2007  
Open Spaces Act 1906  
Parochial Registers and Records Measure 1978  
Police Reform Act 2002  
Public Health Act 1925 — ~~Street Naming and Numbering Functions~~  
Public Health Act 1936  
Public Health Act 1961  
Public Health Acts Amendment Act 1907  
Refuse Disposal (Amenity) Act 1978  
Registration of Burials Act 1864  
Road Traffic Act 1988  
Road Traffic Regulation Act 1984  
Road Traffic (Temporary Restrictions) Act 1991  
Road Traffic Regulation (Special Events) Act 1994  
Safety Sports Ground Act 1975  
Small Holdings and Allotments Act 1908  
Sporting Events (Control of Alcohol etc) Act 1985  
Theatres Act 1968  
Town and Country Planning Act 1990  
Town Improvement Clauses Act 1847 — ~~Street Naming and Numbering Functions~~  
Town Police Clauses Act 1847  
Traffic Calming Act 1992  
Traffic Management Act 2004  
Transport Act 1968, 1981, 1985 and 2000~~6~~  
Waste Minimisation Act 1998  
Waste Batteries and Accumulators Regulations 2009  
Waste Electrical and Electronic Equipment Regulations 2013  
Waste (England and Wales) Regulations 2011  
Weeds Act 1959  
Wildlife and Countryside Act 1981

## **Schedule 4**

### **Table 6**

#### **Delegations to the Corporate Director, Resources**

##### **Executive Functions**

Subject to the requirement set out below and in compliance with the provisions of Table 1 above the Corporate Director, Resources is authorised to discharge any function of the Executive in relation to:-

- The proper administration of the Council's financial affairs
- The provision of Legal and Democratic Services to the Council
- Human Resources and Organisational Development Services
- ICT Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages

In carrying out these delegated functions the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s)

##### **Specific and Non-Executive Delegations**

###### **Finance and Corporate Services**

1. To establish an appropriate Debt Management Strategy and Policy and to implement appropriate action to ensure the collection of revenue, council tax and ~~national non-domestic business~~ rates.
2. The administration of housing benefits, including Discretionary Housing Payments and the administration of the Local Council Tax Support Scheme (from 1 April 2013).
3. The provision, operation and commissioning of a Welfare Rights and Citizens Advisory Service.
4. To exercise the budgetary control functions referred to the Corporate Director under the Council's Financial Procedure Rules.



5. To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
6. To maintain an effective internal audit service.
7. To act as lead officer for the Audit Committee.
8. To act as the Risk Management Officer Champion and ensure appropriate risk management arrangements are in place across the Council.
9. To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.
10. To make appropriate banking arrangements on behalf of the Council.
11. To insure against risks where ~~he~~ this is considered ~~to be~~ appropriate.
12. The operation of the Council's accounting systems and payroll.
13. In consultation with the Leader and Deputy Leader, to authorise the release of funds from contingencies as set out in the Revenue Budget and to forecast and ~~to~~ manage the Council's Collection Funds, making adjustments to payments to principal ~~perception authorities~~ ~~precepting bodies~~ as appropriate.
14. To establish such reserves as required and review them for both adequacy and purpose on a regular basis.
15. To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
  - (a) Section 115(2) (Accountability of Officers);
  - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)
16. In relation to the Pension Fund:
  - (a) To exercise the County Council's function as administering authority relating to the Local Government Pension Scheme.
  - (b) To exercise ~~these~~ discretions ~~under~~ the Council has under the regulations governing the Local Government Pension Scheme ~~Regulations as appear from time to time in Pension Fund Statements of policy;~~
  - (c) To authorise, in cases of urgency, the taking of any action by a Manager of the Pension Fund this is necessary in order to protect the interests of the Fund.

- (d) To take any decision relating to the investment or management of the Pension Fund that cannot reasonably await the next meeting of the Pension Fund Committee.
- (e) To maintain all necessary accounts and records in relation to the Pension Fund, including the calculation of and payment of benefits, reconciliation and investment of contributions, preparation of the Annual Accounts and preparation of membership data for actuarial valuation purposes.
- (f) To maintain the system of internal control.
- (g) To manage the triennial valuation of the Pension Fund.
- (h) To accept for admission into the Pension Fund employees of authorities and bodies as prescribed in Regulations including transferee and community Admissions which are considered as 'exceptional circumstances', subject to an approved Admission Agreement, and subject to any necessary indemnities as appropriate.
- (i) To be the local referee for disputes under the Local Government Pension Scheme
- (j) To set the appropriate funding target for the Fund under the rules of the Local Government Pension Scheme.
- (k) To carry out, in consultation with the Pension Fund Committee, the requirement to monitor and review the investments made by the Fund Managers and report to each meeting of the Pension Fund Committee on the exercise of this delegation.
- (l) To manage cash flow, allocate funds between investment managers in order to ensure that the Fund's asset allocation is maintained and invest the residual cash balances.
- (m) To arrange and authorise the provision of appropriate Member training, including the attendance at conferences and other similar pension fund related events by Members of the Pension Fund Committee.
- (n) To prepare and submit the necessary Policy Statements to Pension Fund Committee and to arrange for the implementation and review of

those statements, strategies, policies and procedures, as required.  
These include the Funding Strategy Statement

- (o) To prepare and submit the necessary plans and principles to the Pension Fund Committee and to arrange for the implementation and review of those plans and principles, as required. These include the Pension Fund Annual Report and the Statement of Investment Principles.
- (p) To produce as part of the Funding Strategy Statement, an assessment of all the specific risks that can be identified in relation to the management of the Pension Fund.

~~17. To administer the Council's car leasing scheme~~

- 17. To write off debts.
- 18. To deal with the payment of Coroner's remuneration and expenses.
- 19. To ensure appropriate financial arrangements across the Council.
- 20. To approve premises for the solemnization of marriages and the registration of civil partnerships.
- 21. To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009.
- 22. To authorise expenditure within the approved budget for civic hospitality.
- ~~23. The Corporate Director, Resources also has the powers set out in Table 7 relating to the Building Schools for the Future programme and the Waste Solution programme.~~
- 23. To agree the terms of loans permitted under law.
- 24. To make a statutory declaration of local authority mortgage interest.
- 25. To respond to notices in relation to EU financial sanctions.
- 26. To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- 27. To forecast yield from Business Rates including the completion and submission to Government of the NNDR 1 and NNDR 3 returns, factoring the implications of the Business Rate Retention Scheme (from 1 April 2013) into the Medium Term Financial Plan and maintaining a Collection Fund in accordance with proper accounting practice.
- 28. To establish a Council Tax Discretionary Reduction Policy and Business Rates Hardship Relief Policy and administer applications for relief under Section 13A(1)(c) of the Local Government Finance Act 1988.

29. To liaise with the Schools Forum on School Funding formula allocations and to advise Council on formula changes to ensure compliance with Department for Education guidance and regulations and the proper administration of Dedicated Schools Grant allocations.

### **Human Resources and Organisational Development**

30. To implement the Council's decisions in relation to Single Status and Job Evaluation.
31. To approve the regrading of posts up to and including Head of Service level.
32. To offer alternative employment to any permanent employee who becomes surplus to the requirements of the Service or whose employment is at risk through reasons of ill health or other incapacity.
33. To determine applications for the extension of sick pay.
34. To approve applications for leave of absence in cases not covered by the Council's policies.
35. To agree variations to the Council's scheme for payments towards removal expenses, lodging allowances and legal fees for new employees.
36. To approve overtime payments for employees above spinal column point 28.
37. To authorise redundancy payments to school staff after consultation with the Head of Corporate Finance.
38. To coordinate the Member Training and Development Programme including:
  - (a) management of the approved Member Training and Development Budget and
  - (b) authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader and the Head of Legal and Democratic Services.
39. To decide, taking into account the opinion of an independent registered medical practitioner, whether under the Local Government Pension Scheme Regulations, a member is eligible for an ill health pension and if eligible, what level of ill health pension the scheme member should be awarded.

### **Legal and Democratic Services**

The following matters are delegated to the Head of Legal and Democratic Services:

40. To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director, Resources in connection with the administration of the Council's financial affairs. This

delegation shall not derogate from the general delegation under Table 1 paragraph 8.

41. (a) To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).
- (b) To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.
42. To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act, 1985.
43. To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.
44. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
45. (a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.
- (b) To prepare, negotiate and agree all legal documentation other than those contained in sub-paragraph (a) relating to or affecting the functions of the Council.
- (c) To sign or attest the Council's seal in all legal documents referred to in sub-paragraphs (a) and (b) and all other legal documentation intended to give effect to decisions of the Council.
46. (a) To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.
- (b) To sign or attest the Council's seal to all documents referred to in sub-paragraph (a)
47. To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.
48. (a) Generally, to institute, defend and conduct any legal proceedings relating to the Council's functions or affecting the property, rights or interests of the Council.
- (b) To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.
49. To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement

exceeding £50,000 will be subject to prior consultation with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.

50. To settle claims from staff for damage to personal property in accordance with the Council's policies.
51. In consultation with the Chairman of the Standards Committee, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended).
52. To:
  - (a) appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and
  - (b) give consent to written resolutions of any company of which the Council is a shareholder.
53. In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.
54. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.
55. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.
56. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).
57. To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).
58. In consultation with the Corporate Director, Neighbourhood Services and the Chairman and Vice-Chairman of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.
59. To consider and respond to representations made by members of the public in relation to a decision to hold a meeting or part of that meeting in private.
60. To discharge the Council's functions in relation to voluntary registrations of village greens as set out in section 15(8) Commons Act 2006.

## **Schedule 5**

### **Table 7**

#### **Delegations for Major Programmes**

In addition to the delegations granted in this part of the Constitution, Chief Officers are authorised from time to time to carry out functions relating to specific projects in collaboration with various Cabinet Portfolio holders. ~~Such projects currently include BSF and Waste management.~~ The delegations to the Chief Officers are contained in the relevant Cabinet reports relating to the projects.